

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JARROD STRINGER, et al.

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as Texas  
Secretary of State and STEVEN C. MCCRAW, in  
his official capacity as Director of the Texas  
Department of Public Safety

Defendants.

Civil Action Case No. 5:20-cv-00046-  
OLG

**APPENDIX IN SUPPORT OF TEXAS DEMOCRATIC PARTY, DSCC, AND DCCC'S  
MOTION FOR SUMMARY JUDGMENT**

<b>Exhibit</b>	<b>Document Description</b>	<b>Page Numbers</b>
A.	Appendix to Plaintiffs' Motion for Summary Judgment in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 77-1), filed June 30, 2017	Appendix 1-204
B.	Order granting Plaintiffs' Motion for Summary Judgment and denying Defendants' Motion for Summary Judgment in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 105), filed May 10, 2018	Appendix 206-266
C.	Certified copy of USCA Judgment/Mandate in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 122), filed December 5, 2019	Appendix 268-283
D.	Final Judgment in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 109), filed May 18, 2018	Appendix 285-291

Exhibit	Document Description	Page Numbers
E.	Complaint filed by Plaintiffs in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 1), filed March 14, 2016	Appendix 293-311
F.	Motion for Summary Judgment filed by Plaintiffs in <i>Stringer v. Pablos</i> , No. SA-16-CA-257-OG (ECF No. 77), filed June 30, 2017	Appendix 313-344
G.	Declaration of Glen Maxey in support of Intervenor-Plaintiffs' Opposition to Defendants' Motion to Dismiss, filed on May 14, 2020 (ECF No. 71-2)	Appendix 346-360
H.	Declaration of Alexander Edelman in support of Intervenor-Plaintiffs' Opposition to Defendants' Motion to Dismiss, filed May 14, 2010 (ECF No. 71-3)	Appendix 363-364
I	Declaration of Sara Schaumburg in support of Intervenor-Plaintiffs' Opposition to Defendants' Motion to Dismiss, filed on May 14, 2020 (ECF No. 71-4)	Appendix 366-367
J	Deposition Transcript of the Corporate Representative of the Texas Democratic Party, Tommy Glen Maxey, taken on April 27, 2020. The transcript was subscribed and sworn by the court reporter on May 3, 2020.	Appendix 369-485
K	Deposition Transcript of the Corporate Representative of the DCCC, Jacqueline Newman, taken on April 28, 2020. The transcript was subscribed and sworn by the court reporter on May 11, 2020.	Appendix 487-619
L	Deposition Transcript of the Corporate Representative of the DSCC, Sara Schaumburg, taken on April 30, 2020. The	Appendix 621-682

Exhibit	Document Description	Page Numbers
	transcript was subscribed and sworn by the court reporter on May 8, 2020.	
M	Transcript of Preliminary Injunction Hearing before the Honorable Orlando L. Garcia, Chief District Court Judge, held on January 30, 2020 (ECF No. 57)	Appendix 684-769
N	Proposed Final Judgment (Redlined)	Appendix 771-778
O	Proposed Final Judgment (Clean)	Appendix 780-787

Dated: May 29, 2020

Respectfully submitted,

/s/ Emily Brailey

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 29, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Emily Brailey

# Exhibit A

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JARROD STRINGER, *et. al*,

Plaintiffs,

V.

ROLANDO PABLOS, IN HIS OFFICIAL  
CAPACITY AS THE TEXAS SECRETARY  
OF STATE and STEVEN C. McCRAW, IN HIS  
OFFICIAL CAPACITY AS THE DIRECTOR  
OF THE TEXAS DEPARTMENT OF PUBLIC  
SAFETY

Civil Action No. 5:16-cv-00257-OLG

Defendants.

## APPENDIX TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

## TABLE OF CONTENTS

1.	May 27, 2015 Notice Letter.....	1
2.	October 23, 2015 Notice Letter.....	22
3.	November 18, 2015 Notice Letter.....	25
4.	Texas Department of Public Safety Implementation Plan.....	28
5.	Excerpt, Texas Secretary of State Elections Division 34 <sup>th</sup> Annual Election Law Seminar, “DPS Voter Inquiry Web Portal”.....	32
6.	Excerpts of 30(b)(6) Deposition of Keith Ingram.....	34
7.	DL-14A (Rev. 2-17).....	49
8.	DL-43 (Rev. 2-17).....	52
9.	DL-64 (Rev. 2-17).....	55
10.	Excerpts of 30(b)(6) Deposition of Sheri Gipson.....	58
11.	Excerpts of Deposition of Sheri Gipson.....	74
12.	Excerpts of 30(b)(6) Deposition of John Crawford.....	83
13.	Secretary of State’s Supplemental Responses to Plaintiffs’ First Requests for Admission.....	93
14.	Excerpt from Secretary of State’s 32nd Annual Election Law Seminar, Voter Registration 102 Presentation.....	107
15.	Department of Public Safety’s Supplemental Responses to Plaintiffs’ First Requests for Admission.....	111
16.	Texas Department of Public Safety Driver License Renewal and Change-of-Address webpage.....	129
17.	Screenshot of Driver License Renewal Receipt and Temporary License.....	131
18.	Screenshot of Voter Registration Application.....	134

19. Texas Voter Registration Application.....	136
20. Driver License Renewal and Change-of-Address screen shots.....	139
21. Excerpts of Deposition of Benjamin Hernandez.....	148
22. Excerpts of Deposition of Jarrod Stringer.....	166
23. Excerpts of Deposition of John Woods.....	187

Dated: June 30, 2017.

Respectfully submitted,

By: /s/ Rebecca Harrison Stevens

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of June, 2017, a true and correct copy of the foregoing was served upon counsel of record via the Court's ECF system.

/s/ Rebecca Harrison Stevens

# EXHIBIT 1

May 27, 2015

*Sent via email and U.S. mail*

The Honorable Carlos H. Cascos  
 Secretary of State  
 Executive Division, Office of the Secretary of State  
 P.O. Box 12697  
 Austin, Texas 78711  
[secretary@sos.texas.gov](mailto:secretary@sos.texas.gov)

**Re: Failure to Comply with Voter Registration Obligations at Texas  
 Department of Public Safety**

Dear Secretary Cascos,

We write on behalf of several eligible voters in the State of Texas — Mark Berry, De'Andre Carter, Donovan Cooper, Wendy Faems, Richard Gates, Cynthia Hawkins, Benjamin Hernandez, Deidre Miller, Marni Phon, Pedro Rodriguez, and Totysa Watkins — and others similarly situated, to notify you that, based on our investigation, the Texas Department of Public Safety ("DPS") is not meeting its voter registration obligations under Section 5 of the National Voter Registration Act of 1993 (the "NVRA") and corresponding state law. As a result, large numbers of eligible Texas voters either did not appear on the voter rolls or appeared with incorrect address information when they attempted to exercise their franchise in 2014 and 2012. A fraction of these voters complained to government officials and, in some cases, had their votes counted. More were disenfranchised.

Under the NVRA, every time an eligible resident obtains, renews, or updates his or her driver's license with DPS, DPS must simultaneously register that person to vote or update that person's voter registration file.<sup>1</sup> As set forth below, there is considerable evidence that the State is violating these mandates on an ongoing and continuing basis.

Indeed, the experiences of numerous Texans demonstrate that the State is not properly registering voters when they apply for a driver's license at DPS offices or when they

<sup>1</sup> 52 U.S.C. § 20503(a)(1). The only exceptions to this rule are when a voter fails to sign the registration form or states that the change-of-address information is not for registration purposes. The NVRA's requirements are described in greater detail below.

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Hon. Carlos Cascos

May 27, 2015

Page 2 of 16

submit a renewal or change-of-address form at DPS offices or online. The voters' experiences are consistent with other information described in this letter: (a) data maintained by the Elections Division of the Office of the Secretary of State, which shows that thousands of voters reported DPS voter registration problems between September 2013 and February 2015; (b) correspondence within DPS during and shortly after the 2012 general election, which was provided to us in response to a Public Information Act request; and (c) the findings of a recent report by Battleground Texas titled *Voting in Texas in 2014*.<sup>2</sup> When combined with publicly-available data — including declining rates of voter registration within Texas — the conclusion is clear: DPS' voter registration failures are widespread and systematically undermining the right to vote in Texas.

Continued compliance with the NVRA and corresponding provisions of state law is necessary to ensure that all eligible Texas voters have an equal ability to participate in our democracy. Ultimate responsibility for enforcing the NVRA rests with the Secretary of State as the State's chief election officer.<sup>3</sup> Accordingly, this letter provides formal notice to the State of an NVRA violation under 52 U.S.C. § 20510(b) on behalf of Mark Berry, De'Andre Carter, Donovan Cooper, Wendy Faems, Richard Gates, Cynthia Hawkins, Benjamin Hernandez, Deidre Miller, Marni Phon, Pedro Rodriguez, Totysa Watkins, and similarly situated Texas voters.

One note: Voters continue to contact the undersigned counsel with their problems registering to vote through DPS. As additional voters come forward, they too may decide to share their stories with the State.

#### OVERVIEW OF THE NVRA AND CORRESPONDING STATE LAW

The NVRA was enacted in 1993 to “establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office.”<sup>4</sup> To achieve this goal, the NVRA imposes certain requirements upon state motor vehicle bureaus. These “Motor Voter” provisions have played a critical role in increasing the number of registered voters nationwide.<sup>5</sup>

<sup>2</sup> Mimi Marziani & James Slattery, *VOIING IN TEXAS IN 2014*, at 6 (2015), available at <http://join.battlegroundtx.com/Voting-In-2014>.

<sup>3</sup> *Scott v. Schedler*, 771 F.3d 831, 838-9 (5th Cir. 2014) (holding that the chief election officer is responsible for enforcement of the NVRA); see also Tex. Elec. Code Ann. § 31.001(a) (West 2013) (“The secretary of state is the chief election officer of the state.”).

<sup>4</sup> 52 U.S.C. § 20501.

<sup>5</sup> See e.g., B. Drummond Ayres Jr., *Law to Ease Voter Registration Has Added 5 Million to the Rolls*, NEW YORK TIMES, Sept. 3, 1995, <http://www.nytimes.com/1995/09/03/us/law-to-ease-voter-registration-has-added-5-million-to-the-rolls.html>; Ari Berman, *How To Make Voting Easier*, THE

Hon. Carlos Cascos

May 27, 2015

Page 3 of 16

Specifically, every time an eligible resident obtains, renews, or updates his or her driver's license with a state motor vehicle bureau like Texas' DPS, the State must "simultaneously" register that person to vote or update that person's voter registration file (unless he or she fails to sign the registration form or states that the change-of-address information is not for registration purposes).<sup>6</sup> In doing so, with limited exceptions, the State may not "require any information that duplicates information required in the driver's license portion of the form."<sup>7</sup>

Texas law reinforces the NVRA's mandates. Under the Texas Election Code, DPS "shall provide," to every individual obtaining or renewing a driver's license, "an opportunity to complete a voter registration application form," and DPS must use "a form and procedure that combines the department's application form for a license or card with an officially prescribed voter registration application form."<sup>8</sup> If the transaction is by mail, DPS must affirmatively "deliver to the applicant by mail a voter registration application form."<sup>9</sup> DPS must also provide a "change of address form and procedure that combines department and voter registration functions," so that when an individual submits a change of address, that "serves as a change of address for voter registration" as well, unless the individual indicates otherwise.<sup>10</sup> Finally, if driver's

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NATION, May 20, 2013, <http://www.thenation.com/blog/174431/how-make-voting-easier> (discussing how over 140 million people have registered to vote through procedures put in place by the NVRA).

<sup>6</sup> 52 U.S.C. § 20503(a)(1). The law further provides, in relevant part,

Each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application. . . . Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

*Id.* at § 20504(a)(1)-(2). These provisions apply not only to driver's licenses, but also to "any personal identification document issued by a State motor vehicle authority." *Id.* § 20502(3). In this letter, the term "driver's license" encompasses personal identification cards issued by DPS as well as driver's licenses.

<sup>7</sup> *Id.* at § 20504(a)(2).

<sup>8</sup> Tex. Elec. Code Ann. § 20.063(a) (West 2013); *id.* at § 20.062(a).

<sup>9</sup> *Id.* at § 20.063(b).

<sup>10</sup> *Id.* at § 20.063(c); *id.* § 20.062(a).



Hon. Carlos Cascos

May 27, 2015

Page 4 of 16

license or address information is missing from a voter's registration application, DPS employees have a duty to correct the voter's application.<sup>11</sup>

#### **FAILURE TO PROPERLY REGISTER VOTERS AT DPS OFFICES**

Available evidence indicates that Texas is systemically failing to register Texas voters when they submit a driver's license application, renewal application or change-of-address form in person at DPS offices.

##### *The Experiences of Individual Voters*

Several individual voters have already contacted the undersigned counsel about DPS' failure to properly register them to vote after they attempted to register at DPS offices across Texas.<sup>12</sup>

- **De'Andre Carter:** Mr. Carter moved to Dallas County in May of 2013 after graduating from Texas A&M University in College Station. He renewed his driver's license at a Dallas DPS location in July of 2014, and recalls checking the "yes" box to register to vote in Dallas. Mr. Carter received a new license in the mail a few weeks later, but did not receive a new voter registration card. In preparation for Election Day in November 2014, Mr. Carter called Dallas County to confirm his polling location, but was told that he was still registered in College Station. Upon explaining his attempt to register at DPS, he was told by election officials that the DPS system "was not caught up." Mr. Carter was told that he could cast a provisional ballot, and later went to a polling location and did so; he does not recall being advised to take any further action to ensure that his vote was counted. Ultimately, Mr. Carter received a letter in the mail advising him that his vote was not counted. He later received a voter registration card listing his current Dallas address.
- **Donovan Cooper:** Mr. Cooper and his wife moved to Dallas County from California in the summer of 2014. They went to the Dallas County DPS location in Grand Prairie in July to obtain Texas drivers' licenses and to register to vote. Mrs. Cooper was told that she needed to obtain additional documentation before she was able to complete her application, which she did two weeks later at another DPS location. Mr. Cooper was able to complete his application that day, and recalls checking the "yes" box to indicate that he

<sup>11</sup> See *id.* at § 20.063(d).

<sup>12</sup> The voters included in this letter are, disproportionately, residents of Dallas County. This is a result of our early outreach to affected voters in Dallas County after obtaining their mailing addresses from the Dallas County Elections Administration. There is no evidence that problems occur disproportionately at Dallas County DPS offices. Instead, the Secretary of State's data (described below) shows that problems occur at DPS locations across Texas.

Hon. Carlos Cascos

May 27, 2015

Page 5 of 16

wanted to register to vote. Thereafter, Mrs. Cooper received a voter registration card in the mail; Mr. Cooper did not. They attempted to vote together on Election Day and — while his wife was allowed to cast a ballot — Mr. Cooper was only allowed to cast a provisional ballot. He later received notice that his provisional ballot was counted, and then received two voter registration cards in the mail.

- **Cynthia Hawkins:** After moving to Bexar County from another Texas county, Ms. Hawkins went to DPS' Leon Valley location on September 9, 2014 to renew her license and change her address. The clerk asked her if she also wanted to register to vote, and she said "yes." There was no further discussion about voter registration during the encounter, and Ms. Hawkins assumed that she was in fact registered at her current address. On October 31, 2014, the last day of early voting, Ms. Hawkins attempted to vote at the Tobin Library around 4:30 PM. The election worker with whom she spoke told her that she was not registered in Bexar County and thus was only eligible to cast a limited ballot, which was only available in downtown San Antonio at the main early voting location. By that time of day, however, it was too late for Ms. Hawkins to travel downtown. Because Ms. Hawkins underwent a scheduled surgery on Election Day, she was unable to vote at all in the November 4, 2014 election.
- **Richard Gates:** Mr. Gates moved to Collin County from Massachusetts in July of 2014. He and his husband registered their cars and applied for new drivers' licenses at the Garland DPS location shortly after moving. Both Mr. Gates and his husband indicated that they wanted to register to vote during the driver's license application process. A month or so later, Mr. Gates' husband received his voter registration card in the mail; Mr. Gates did not receive one. They went to the Haggard Library during the early voting period and — while his husband was able to vote — Mr. Gates was told that he was not registered. Eventually, he was offered a provisional ballot. Mr. Gates declined to vote a provisional ballot at that time in order to investigate his registration status. He contacted the Secretary of State's office to discuss his attempt to vote, but was told to contact DPS about the matter; DPS, in turn, told him to contact the Secretary of State. He then went to the Davis Library location later in the early-voting period and, after again confirming that he was not listed as a registered voter in the database, he cast a provisional ballot. Mr. Gates later received a letter indicating that his provisional ballot was counted, as well as two registration cards, one effective as of August 21, 2014 and another effective as of December 3, 2014.
- **Deidre Miller:** Ms. Miller moved to Dallas County from Florida in 2014, and went to a Dallas DPS location to obtain a driver's license, register her car, and register to vote in September of 2014. Ms. Miller never received a voter registration card in the mail, but her husband, who had gone to DPS separately, received one a few weeks after he registered at the another DPS location. Ms.



Hon. Carlos Cascos  
 May 27, 2015  
 Page 6 of 16

Miller and her husband attempted to vote on October 31, 2014 and — while her husband was able to cast a ballot — she was told that her name was not on the rolls. She cast a provisional ballot, but does not know whether it was counted.

- **Marni Phon:** Ms. Phon and her husband moved to Tarrant County in the summer of 2014 from Cincinnati, Ohio, and went to the Brentwood Stair Road DPS location to obtain drivers' licenses on August 20, 2014. They were seated next to each other and went through the process side-by-side, both checking the "yes" box to indicate that they wanted to register to vote. Ms. Phon's husband received a registration card in the mail some time later, but Ms. Phon did not. Ms. Phon attempted to vote at Tanglewood Elementary School on Election Day — where her husband had successfully cast a ballot earlier — but was told by an election worker that her name was not on the rolls. After explaining the foregoing, the election worker told her that "this happens a lot." Ms. Phon cast a provisional ballot, but was told conflicting things by the election workers about whether any follow-up steps were necessary in order for her vote to be counted. Because Ms. Phon was traveling out of town, she was unable to take any additional steps, and does not know if her vote was counted.

#### *Other Evidence Confirms Widespread Registration Problems*

These voters' experiences are not unique. Between September 2013 and February 2015, the Secretary of State's Elections Division confirmed over 1,700 incidents reported by voters who checked "yes" on their drivers' license applications at DPS, indicating they wanted to register to vote at that time, but did not appear on the voter rolls.<sup>13</sup> Indeed, during the 12-day early voting period of the November 2012 general election, DPS personnel reported that:

DPS has received an approximate average of 100 complaints per day.  
 Staff estimates that about half have been customer error, and about

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<sup>13</sup> Email from Keith Ingram, Dir., Elections Div., to Mimi Marziani, Legal Dir., Battleground Texas (Dec. 9, 2014 2:30 PM) (on file with Battleground Texas); Letter from Lindsey Wolf, General Counsel, Office of the Sec'y of State, to Mimi Marziani, Legal Dir., Battleground Texas (March 2, 2015) & Attachment (on file with Battleground Texas). In the December 9, 2014 email, Mr. Ingram provided the following explanation of this data:

The SOS and DPS have created a web portal where counties can upload information from voters who tell the county that they attempted to register to vote at DPS. DPS then researches the information and returns an answer. If the voter did request voter registration and the record was not transmitted by the DPS clerk, then the record is transmitted and the registration is made effective on the date that the voter was at the DPS.

Hon. Carlos Cascos  
 May 27, 2015  
 Page 7 of 16

half have been an error on the part of the Customer Service Representative.<sup>14</sup>

Similarly, in October and November of 2014, Battleground Texas received dozens of calls to its public hotline from voters who attempted to register or to update voter registration information at a DPS office and yet did not appear on the voter rolls.<sup>15</sup> Moreover, as part of a coordinated voter protection effort during the 2014 election, Battleground Texas trained and placed volunteer poll watchers at over 200 polling places on Election Day. As described in *Voting in Texas in 2014*, several poll watcher volunteers witnessed pervasive problems with the voter rolls that were linked to DPS. To illustrate:<sup>16</sup>

- After observing voting at one polling location, one volunteer noted that: “DPS’s failure to update address changes impacted 10-12 voters.”
- Another observed a voter who claimed to have registered at DPS but was not on the rolls, and then reported: “Judge called elections office and confirmed he was not registered. Per other worker this is a common problem with people who register at [DPS].”
- A third reported that: “a fair number of folks seem to have had problems who claimed to have registered through DPS when getting new or renewing license[.]”

Moreover, for the reasons set forth below, we believe that the reports received by the Elections Division, DPS and Battleground Texas represent just a fraction of the total voters affected by DPS’ failure to properly process voter registrations.

*First*, the incidents highlighted above capture only those voters who contacted Battleground Texas, DPS or election officials *and* specifically complained about voter registration problems at DPS. Countless other instances may have occurred when

<sup>14</sup> Email from Gretchen Essell to Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div. (Nov. 5, 2012, 10:19 AM), pg. 13 of document entitled “DPS Internal Communication – not voter specific” (on file with Battleground Texas); *accord* Email from Tony Rodriguez, copying Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div. (Nov. 5, 2012, 10:40 AM), pg. 14 of document entitled “DPS Internal Communication – not voter specific” (on file with Battleground Texas) (“HQ has been working for over a week with the Secretary of State’s office to validate these registrations and we are finding that more than 50% of the errors are on the part of the CSRs entering information incorrectly.”).

<sup>15</sup> Marziani & Slattery, *supra* note 2, at 6.

<sup>16</sup> Examples are taken from *Voting in Texas in 2014*. *See id.* at 7.



Hon. Carlos Cascos  
 May 27, 2015  
 Page 8 of 16

voters attempted to vote, but are not captured in these data sets for at least the following reasons:

- The voter did not lodge a complaint or complained to a different entity after experiencing the registration problem.
- The voter attempted to complain to DPS, but the complaint was disregarded. An email from the Elections Divisions to county registrars in October of 2012 states that DPS will *not* investigate a voter's registration status at the request of the voter himself or herself. Instead, DPS policy is that "[t]he request can only come from an official of the county."<sup>17</sup>
- The voter complained to a county election official, but did not specifically report an interaction with DPS.
- The voter complained to a county official *and* reported an interaction with DPS, but that complaint is nonetheless not captured in the Elections Division's data. The data provided by the Elections Division comes from just 123 of the state's 264 counties, strongly suggesting that the data set is incomplete.<sup>18</sup>

*Second*, provisional voting data from the five largest counties in Texas shows that 3,820 voters cast provisional ballots during the 2014 general election that were rejected because those voters did not appear on the voter rolls.<sup>19</sup> DPS may very well be to blame for a significant portion of these omissions. And, of course, provisional ballot data does not capture any voter who checked his or her registration status online<sup>20</sup> and then did not attempt to vote after failing to find his or her name on the rolls due to DPS error.

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<sup>17</sup> Email from Tony Rodriguez to Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div. (forwarding Email from Judy Knappek, Election Specialist, McLennan County, to Ruth Ladd) (quoting Betsy Schonohoff, Voter Registration Dir., Elections Div.) (Oct. 25, 2012, 1:54 AM), pgs. 7–8 of document entitled "DPS Internal Communication – not voter specific" (on file with Battleground Texas).

<sup>18</sup> See Email from Keith Ingram to Mimi Marziani, *supra* note 13. The largest counties excluded from the Elections Division's data are El Paso, Bell, Webb, Randall, and Ector.

<sup>19</sup> Marziani & Slattery, *supra* note 2, at 4–5. Notably, Battleground Texas reported that it "received repeated anecdotal reports of voters being turned away without being offered a provisional ballot during the 2014 election, indicating that compliance with the provisional balloting laws may fluctuate from polling place to polling place." *Id.* at 4 (citation omitted). Accordingly, the provisional voting data may actually represent only a portion of the total voters who showed up at the polls but were not on the voter rolls.

<sup>20</sup> The Secretary of State maintains an online portal for voters to view their registration information at <https://team1.sos.state.tx.us/voterws/viw/faces/SearchSelectionVoter.jsp>.

Hon. Carlos Cascos  
 May 27, 2015  
 Page 9 of 16

*Third*, similar issues with DPS voter registration were publicly reported during the 2012 election cycle.<sup>21</sup> An investigation of voter registration rates by the *Houston Chronicle*, for instance, found “unexplained dips in so-called ‘motor voter’ registrations” and that “several local election officials and volunteers told the *Chronicle* that Houston area voters have long complained about motor voter problems — sometimes discovered only after a would-be motor voter arrives at the polls.”<sup>22</sup>

In addition, the Secretary of State’s Office sent at least two mass communications to election officials during the 2012 general election cycle concerning DPS voter registration problems. One, according to the *Houston Chronicle*, warned of interruptions in the system to transfer registration information electronically from DPS during the first week of early voting, and was sent after voters “complained about issues with their attempts to register at DPS offices in Tarrant and Harris counties.”<sup>23</sup>

Then, at the end of the early voting period, on November 2, 2012, the Elections Division sent an email with the subject line “MASS E-MAIL ADVISORY — (VR/EA) Confirming Provisional Voters with DPS (604).” Noting that “[m]any of you are working with your local DPS offices in order to resolve a voter’s registration status,” the Elections Division stated that county officials could submit voter registration inquiries to DPS by facsimile.<sup>24</sup> But, the Division warned, DPS’ ability to actually investigate reported problems “will depend largely on the volume they receive and the timing in which they are received.”<sup>25</sup> DPS internal correspondence from that same day confirms that some voters, despite complaining and casting a provisional ballot, would not even have their complaint investigated:

SOS (Betsy Schonoff) [sic] is going to send an email to all of the voter registrars to instruct them that they must have their requests for verification for the provisional ballots to us by noon on Thursday,

<sup>21</sup> Lise Olsen, ‘Motor Voters’ Missing on Rolls, HOUS. CHRON., Oct. 28, 2012, <http://www.chron.com/news/houston-texas/houston/article/Motor-voters-missing-on-rolls-3987151.php> (last updated Oct. 28, 2012, 11:01 PM); see also Jessie Degollado, *Veteran Reports Difficulty with Voter Registration*, KSAT.COM, Nov. 6, 2012, <http://www.ksat.com/content/pns/ksat/news/2012/11/06/veteran-reports-difficulty-with-voter-registration0.html> (last updated Jan. 22, 2014, 4:05 PM); Michael Handley, *Broken Texas Motor Voter Registration Process*, DEMOCRATIC BLOG NEWS (Nov. 3, 2012, 1:00 PM), <http://collindemsnews.blogspot.com/2012/11/broken-texas-motor-voter-registration.html>.

<sup>22</sup> Olsen, *supra* note 21.

<sup>23</sup> *Id.*

<sup>24</sup> Email from Betsy Schonhoff, Voter Registration Dir., Elections Div., to VRTeam, re: “MASS E-MAIL ADVISORY — (VR/EA) Confirming Provisional Voters with DPS (604)” (Nov. 2, 2012, 6:50 PM) (on file with Battleground Texas).

<sup>25</sup> *Id.*



Hon. Carlos Cascos  
 May 27, 2015  
 Page 10 of 16

[November 8]. We will do our best to process all of them and return them by midnight on Friday, but she is telling them there is no guarantee. If we don't get them all done, then we don't and she said there is nothing we can do at that point.<sup>26</sup>

Indeed, subsequent correspondence indicates that the complaints of at least 302 voters were received by DPS after the deadline — which was just days after Election Day — and were subsequently disregarded.<sup>27</sup>

*Finally*, publicly available data indicates two worrisome registration trends in Texas, which may be attributable, at least in part, to DPS' failure to comply with the NVRA.

To start, recent data from the Elections Assistance Commission ("EAC") shows that Texas rejected voter registration applications from DPS offices at a much greater rate than the national average. The invalidity rate for applications from DPS was 4.2% during the 2012 election cycle — more than twice the national average and more than 9 times the median state's invalidity rate.<sup>28</sup> This statistic underscores that there are serious flaws in DPS registration processes, particularly given that DPS staff are obligated by law to correct errors on voters' registration forms.<sup>29</sup>

In addition, data from the EAC and from the Secretary of State shows that voter registration as a percentage of the total voting age population has been on the decline

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<sup>26</sup> Email from Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div., to Margaret Spinks, Manager, DPS Driver License Div. (Nov. 2, 2012, 4:30 PM), pg. 12 of document entitled "DPS Internal Communication – not voter specific" (on file with Battleground Texas). This email incorrectly states that the deadline for voter registrars was noon on Thursday, November 11, 2012. This date never existed, and subsequent correspondence makes clear that Ms. Buster was actually referring to Thursday, November 8, 2012.

<sup>27</sup> Email from Margaret Spinks, Manager, DPS Driver License Div., to Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div. (Nov. 15, 2012, 4:15 PM), pgs. 15-18 of document entitled "DPS Internal Communication – not voter specific" (on file with Battleground Texas).

<sup>28</sup> See U.S. E.A.C., THE IMPACT OF THE NATIONAL VOTER REGISTRATION ACT OF 1993 ON THE ADMINISTRATION OF ELECTIONS FOR FEDERAL OFFICE 2011–2012, at 41 tbl.2a, 55, tbl.2d (2013), available at [http://www.eac.gov/assets/1/Documents/EAC\\_NVRA%20Report\\_lowres.pdf](http://www.eac.gov/assets/1/Documents/EAC_NVRA%20Report_lowres.pdf) (hereinafter "EAC 2012 REPORT"). This report contains data on the total number of registration applications received at each state's motor vehicle offices and the number of invalid and/or rejected registration applications received at these offices, which we used to calculate and compare invalidity rates.

<sup>29</sup> Tex. Elec. Code Ann. § 20.063(d) (West 2013).

Hon. Carlos Cascos  
 May 27, 2015  
 Page 11 of 16

since 2000.<sup>30</sup> Similarly, EAC data estimates a decline in voter registration as a percentage of the total *citizen* voting age population. Indeed, EAC data shows that the percentage of the citizen voting age population that is registered to vote in Texas fell almost 7% between 2008 and 2012 — declining from 89.0% in 2008 to 82.9% in 2012.<sup>31</sup>

#### FAILURE TO CREDIT ONLINE TRANSACTIONS

Applications submitted to DPS online to renew a driver's license or to update the address associated with a driver's license are governed by the same Motor Voter provisions of the NVRA, which apply to “[e]ach State motor vehicle driver’s license application (including *any* renewal application)” and “[a]ny change of address form submitted . . . for purposes of a State motor vehicle driver’s license”<sup>32</sup> and which prohibit requiring duplicative information.<sup>33</sup> As defined by the *Oxford Dictionary*, the term “each” is “[u]sed to refer to every one of two or more . . . things”; similarly, the term “any” is “[u]sed to refer to one or some of a thing or number of things, no matter how much or many.”<sup>34</sup> Accordingly, *every* time an individual submits a renewal application or change-of-address form online to DPS, that information must simultaneously be used to update the voter rolls.

In this regard, the State’s policies and practices openly violate the NVRA. A holder of a Texas driver’s license can renew that license or update the address information on that

<sup>30</sup> EAC 2012 REPORT, *supra* note 28, at 27 tbl. 1a; TEX. SEC’Y OF STATE, *Turnout and Voter Registration Figures*, <http://www.sos.state.tx.us/elections/historical/70-92.shtml> (last visited April 14, 2015).

<sup>31</sup> Compare EAC 2012 REPORT, *supra* note 28, at 37 tbl.1d with U.S. E.A.C., THE IMPACT OF THE NATIONAL VOTER REGISTRATION ACT OF 1993 ON THE ADMINISTRATION OF ELECTIONS FOR FEDERAL OFFICE, at 35 tbl.1d (2009), *available at* <http://www.eac.gov/assets/1/AssetManager/The%20Impact%20of%20the%20National%20Voter%20Registration%20Act%20on%20Federal%20Elections%202007-2008.pdf>.

<sup>32</sup> 52 U.S.C. §§ 20504(a)(1) & (d) (emphasis added). See also U.S. Dep’t of Justice, *The National Voter Registration Act of 1993: Questions and Answers*, [http://www.justice.gov/crt/about/vot/nvra/nvra\\_faq.php](http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php) (last visited April 24, 2015) (“[T]o the extent that the State provides for remote applications for driver’s licenses, driver’s license renewals, or driver’s license changes of address, via mail, telephone, or internet or other means, then provision must be made to include the required voter registration opportunity as well”); *Schedler*, 771 F.3d at 834, 837, 841 (holding that plaintiffs lacked standing to pursue NVRA claim regarding remote transactions without vacating the District Court’s conclusion that the NVRA applies to both in-person and online transactions); *Georgia State Conference of N.A.A.C.P. v. Kemp*, 841 F. Supp. 2d 1320, 1332 (N.D. Ga. 2012) (denying portion of motion to dismiss that was based on assertion that remote public assistance transactions, e.g., internet, phone, and mail applications, are not covered by NVRA).

<sup>33</sup> 52 U.S.C. § 20504(a)(2) (emphasis added).

<sup>34</sup> Definitions available through the search function of Oxford Dictionaries: English, <http://www.oxforddictionaries.com/us> (last visited April 30, 2015).



Hon. Carlos Cascos  
 May 27, 2015  
 Page 12 of 16

license at <https://txapps.texas.gov/tolapp/txdl/>. But, when a voter checks “yes” under the line stating “I want to register to vote” on Step 5 of the process, the voter’s registration files are not simultaneously updated. Instead, the voter is told:

Selecting “Yes” does not register you to vote. A link to the Secretary of State Voter website (where a voter application may be downloaded or requested) will be available on your receipt page.<sup>35</sup>

The Secretary of State’s *32nd Annual Election Law Seminar Handbook* confirms that “[i]f the [DPS] transaction was made online, then the person is not registered to vote.”<sup>36</sup> While the Secretary maintains that, “[b]y selecting ‘yes’ when updating information through DPS online renewal [the voter] is merely requesting a link to a voter registration application on the individual’s receipt page,”<sup>37</sup> this position cannot be reconciled with the NVRA’s clear language. Nor can this approach constitute a single “change of address form and procedure that combines department and voter registration functions” as required by the Texas Election Code.<sup>38</sup>

Even though the State does not use online change-of-address transactions with DPS to properly register voters at their new addresses, that information does affect the voter rolls. Online change-of-address updates are apparently used by counties to *remove* voters from the rolls in their previous county of residence.<sup>39</sup> In other words, the State not only fails to update registration records for a voter who changes her address online with DPS — even though the State has the technical ability to do so — it may cause that voter to be purged from the rolls altogether. This perverse result cannot be reconciled with the NVRA’s goal of increasing the number of eligible citizens on the voter rolls.

The State cannot abrogate its voter registration responsibilities by simply notifying voters that new information from online transactions is not being credited. But, even if it could, the notice being provided is insufficient.<sup>40</sup>

<sup>35</sup> See App’x A, which shows an image of the screen visible to voters at Step 5 in the change-of-address process.

<sup>36</sup> SEC’Y OF STATE, 32ND ANNUAL ELECTION LAW SEMINAR HANDBOOK 1207 (2014) (PDF version on file with Battleground Texas).

<sup>37</sup> *Id.* at 1208.

<sup>38</sup> Tex. Elec. Code Ann. § 20.062(b) (West 2013).

<sup>39</sup> See Tex. Elec. Code Ann. § 16.031 (West 2013).

<sup>40</sup> Notably, the portion of the DPS webpage that provides answers to frequent inquiries about the online change-of-address process does not indicate that voter registration files are not simultaneously updated. See generally DPS, Driver License Div., Driver License Renewal and Change of Address, [https://txapps.texas.gov/tolapp/txdl/faq.dl?locale=en\\_US#question13](https://txapps.texas.gov/tolapp/txdl/faq.dl?locale=en_US#question13), attached as App’x B.

Hon. Carlos Cascos  
May 27, 2015  
Page 13 of 16

Several individual voters have shared their own experience seeking to change their address for both driver's license and voter registration purposes through DPS' website with the undersigned counsel:

- **Mark Berry:** Mr. Berry moved from Missouri to Dallas County on March 1, 2014. Shortly thereafter he bought a new vehicle and registered it at the dealership. He later applied for his driver's license in person at a DPS location, and recalls registering to vote at that time. Approximately one month later, Mr. Berry bought a house in Irving and changed his address online using DPS' website. He received a new license in the mail listing his Irving address, and believed that his voter registration was updated as well. When he attempted to vote in Irving on Election Day, however, the election worker told him that he was not registered at his current address. Mr. Berry cast a provisional ballot and later received a letter confirming that his vote was not counted.
- **Wendy Faems:** Ms. Faems moved from Collin County to Dallas County on February 14, 2014. She changed her driver's license address online shortly thereafter, and assumed that doing so updated her address for voter registration purposes as well. She attempted to vote on Election Day at W.T. White High School, but was told that her name was not on the rolls in Dallas County, and that she was still on the rolls in Collin County. Ms. Faems drove to Collin County and attempted to vote there, but was turned away and told to return to Dallas County to cast a ballot. She returned to the first polling location in Dallas County and cast a provisional ballot. Ms. Faems later received notice that her vote was not counted.
- **Benjamin Hernandez:** Mr. Hernandez moved to Dallas County from Ector County in February 2013. That month, he changed his address and attempted to update his voter registration online through DPS' website. Mr. Hernandez received a new driver's license in the mail, but did not receive a voter registration card. On Election Day 2014, Mr. Hernandez attempted to vote in Dallas County, but was told that his name was not on the rolls. He cast a provisional ballot, but later received notice that his vote was not counted.
- **Totysa Watkins:** Ms. Watkins moved from Denton County to Dallas County in 2011, and changed her address and attempted to update her voter registration online through the DPS website after moving. In September 2013 she moved within Irving, and once again changed her driver's license address and attempted to update her voter registration online through DPS. Ms. Watkins attempted to vote on Election Day in 2014, but was told by an election worker that she was not registered in Dallas County. She cast a provisional ballot. A few weeks later she received a notice indicating that her vote was not counted, and later received two new voter registration cards.



Hon. Carlos Cascos  
 May 27, 2015  
 Page 14 of 16

Critically, none of these voters were informed that completing DPS' online change-of-address form could remove their names from the rolls in their former county of residence. Instead, each believed that he or she was properly registered because he or she completed an online transaction with DPS. These voters only learned of DPS' failure to register them to vote or to update their voter registration files when they arrived at the polls.

The Elections Division has received more than 1,800 reports from individuals who completed an online transaction with DPS and mistakenly believed that the voter rolls were updated too. These voters complained to election officials when they attempted to vote but none of their votes were ultimately counted.<sup>41</sup> Plus, for the reasons outlined above, these 1,800 voters represent just a fraction of the total voters statewide who were disenfranchised on these grounds.

Furthermore, although the Elections Division and DPS have been aware of "the confusion" caused by the online policies since at least 2012,<sup>42</sup> no significant reforms have been made. Emails between the Election Division and DPS acknowledge widespread confusion among voters in 2012, but — rather than credit online transactions as required by the NVRA or, at the very least, clarify the notice given on the DPS website — officials chose simply to link "directly to the voter application page instead of the general SOS page" when a voter completes an online renewal or change-of-address transaction.<sup>43</sup> Clearly, this "solution" has been woefully inadequate.

#### **FAILURE TO TREAT VOTER REGISTRATION AS DEFAULT CHOICE**

Pursuant to current policy, a Texas voter must specifically check "yes" when completing their driver's license application in order for their application to simultaneously serve as their voter registration.<sup>44</sup> If a voter leaves that portion of the form blank, or checks both "yes" and "no," that voter will not be registered.<sup>45</sup>

<sup>41</sup> See Email from Keith Ingram to Mimi Marziani, *supra* note 13.

<sup>42</sup> Email from Margaret Spinks to Marguerite Buster, *supra* note 27 (forwarding email from Betsy Schonhoff, Voter Registration Dir., Elections Div., to Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div.) (Nov. 14, 2012, 4:32 PM), pgs. 17-18 of document entitled "DPS Internal Communication – not voter specific" (on file with Battleground Texas).

<sup>43</sup> Email from Marguerite Buster, Customer Relations Coordinator, DPS Driver License Div., to Michael Terry (Feb. 25, 2013, 11:27 AM), pgs. 21-23 of document entitled "DPS Internal Communication – not voter specific" (on file with Battleground Texas).

<sup>44</sup> See 32ND ANNUAL ELECTION LAW SEMINAR HANDBOOK, *supra* note 36, at 1213.

<sup>45</sup> *Id.*

Hon. Carlos Cascos  
 May 27, 2015  
 Page 15 of 16

This practice cannot be reconciled with the clear language of the NVRA, which mandates that every driver's license application "shall serve as an application for voter registration with respect to elections for Federal office *unless the applicant fails to sign the voter registration application.*"<sup>46</sup> This language, combined with the NVRA's purpose, mandates that the State treat voter registration as the default practice for driver's license applicants. The State cannot instead force voters to opt in.

The Elections Division has identified over 70 voters who believed they had successfully registered while obtaining a driver's license, but who were, in fact, never registered because they either left that portion of the form blank or checked "yes" and "no."<sup>47</sup>

One voter has already come forward with his own experience:

- **Pedro Rodriguez:** Mr. Rodriguez moved to Williamson County from Bexar County in 2013. He changed his address in person at DPS, and believed that he was updating his voter registration information at that time as well. But when Mr. Rodriguez attempted to vote on Election Day in 2014, he was told that he was not on the rolls. Mr. Rodriguez cast a provisional ballot, but received a letter notifying him that his ballot was not counted; later, he received a voter registration card. The data provided to Battleground Texas from the Elections Division shows that Mr. Rodriguez unwittingly checked both the "yes" and the "no" box on the voter registration portion of the driver's license application.

\*\*\*\*\*

In sum, every time an eligible resident obtains, renews, or updates his or her driver's license with DPS, DPS must simultaneously register that person to vote or update that person's voter registration file.<sup>48</sup> Unfortunately, as described above, the State is not complying with these mandates.

We trust that you share our concerns regarding voter registration practices at DPS and will take immediate steps to address the problems highlighted above. The undersigned counsel are willing to meet with the Secretary of State's office to assist in your development of a comprehensive plan for full compliance. If, however, the State fails to take steps to remedy its violations of Section 5 of the NVRA, we are prepared to pursue litigation as permitted by 52 U.S.C. § 20510(b).

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<sup>46</sup> 52 U.S.C. § 20504(a)(1).

<sup>47</sup> See Email from Keith Ingram to Mimi Marziani, *supra* note 13.

<sup>48</sup> 52 U.S.C. § 20503(a)(1).

Hon. Carlos Cascos  
May 27, 2015  
Page 16 of 16

We look forward to your response.

Very truly yours,



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cc: Steven McCraw, Director, Texas Department of Public Safety  
Keith Ingram, Director, Elections Division, Office of the Secretary of State

*Appendices*



## Appendix A



THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



### Select Options

Name:

Your DL Number

Your DL Class: C

Complete the information below, then select 'Continue'.

### Options

- ☐ I want to donate \$1.00 to the Glenda Dawson-Donate Life Texas Registry as part of my driver license transaction ⓘ
- ☐ I want to be an organ donor. You must select the box to receive the donor symbol on your new card, even if you've selected it before.

I want to register to vote

Required. Selecting "Yes" **does not** register you to vote. A link to the Secretary of State Voter website (where a voter application may be downloaded or requested) will be available on your receipt page.

- ☐ Yes  
☒ No

**Continue**

### Information

#### Steps to Complete

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

Frequently Asked Questions  
 Where's My License or ID?  
 Log Out

### Help

For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov.Help](mailto:Texas.gov.Help).

### Resources

- [Texas Department of Public Safety](#)

### Texas.gov

[Texas.gov Policies](#)  
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APPENDIX 19

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## Appendix B

FAQ | Driver License Renewal | [https://txapps.texas.gov/toapps/txdm/faq.do?case=en\\_US&question=12](https://txapps.texas.gov/toapps/txdm/faq.do?case=en_US&question=12)

## How does the online change of address work?

### Step 1: Log In

Log in by entering your

1. Driver license or ID card number,
2. Date of birth,
3. Last four digits of Social Security number, and
4. Audit number (see driver license samples for location of audit number).

### Step 2: Select Your Services

You may be eligible to

1. Renew,
2. Change your address, or
3. Renew **and** change your address.

### Step 3: Select Optional Items and Complete Affirmations

Optional Items

1. Donations to Blindness Education, Screening, and Treatment (BEST) program and the Glenda Dawson-Donate Life Texas Registry
2. Register to vote

Affirmations

1. U.S. citizenship – you must be a U.S. citizen to renew or change your address online
2. Vision and physical/mental condition – you must not have had any changes to your vision or health that affect your ability to drive safely (if renewing a driver license)

### Step 4: Review Order and Make Payment

Review order information, make changes if necessary, and submit payment information.

Your new driver license or ID card will be mailed to you in two to three weeks. If you renewed or changed the address for a driver license, you need to print your temporary driver license (valid for 45 days) from the receipt page.

### Step 5: Invalidate Old Driver License/ID

Texas law says you cannot have more than one valid driver license or ID card. After receiving your new driver license or ID, invalidate your old card by cutting it up.

[Return to the Top of Document](#)

APPENDIX 21

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# EXHIBIT 2



**waterskraus**

October 23, 2015

*Sent via email and U.S. mail*

Anne Marie Mackin  
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 Litigation Division  
 P.O. Box 12548  
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**Re: Supplemental Notice of Texas' Failure to Comply with Voter  
 Registration Obligations at the Department of Public Safety**

Dear Ms. Mackin,

I write to supplement our May 27<sup>th</sup> Notice Letter (attached and incorporated herein by reference) with the name of another Texas voter who attempted to update his voter registration information when changing his address online at [www.txdps.state.tx.us](http://www.txdps.state.tx.us). This letter provides formal notice to the State of NVRA violations under 52 U.S.C. § 20510(b) on behalf of Jarrod Stringer and others similarly situated.

Mr. Stringer moved from Arlington, Texas to San Antonio, Texas on August 1, 2014. Mr. Stringer visited DPS' website to update his address within the same week, and recalls checking "yes" when asked whether he wished to update his voter registration. Mr. Stringer attempted to vote early in the November 2014 election, but was told by poll workers at the University of Texas at San Antonio that his name was not on the rolls. Mr. Stringer then called Bexar County, and was told that he was not registered in Bexar, and that as a result, he could only vote in the state-wide election there. When he explained that he had changed his address for voter registration purposes online through DPS' website, the county employee with whom he was speaking told him that the county was aware of "problems at DPS."

As set out in our original Notice Letter, every time an eligible resident renews or updates his or her driver's license with DPS, the NVRA requires that DPS simultaneously register that person to vote or update that person's voter registration file, unless the applicant fails to sign the form or indicates that he or she does not wish to update his or her information for voter registration purposes. Unfortunately, the State is not complying with the NVRA's mandates.

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Anne Mackin  
October 23, 2015  
Page 2 of 2

We are willing to meet or speak with you to discuss this Supplemental Notice. In any event, please advise as to whether the State maintains the positions articulated in your June 23<sup>rd</sup> and September 10<sup>th</sup> letters.

Sincerely yours,



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# EXHIBIT 3

**waterskraus**

November 18, 2015

*Sent via email and U.S. mail*

Anne Marie Mackin  
 Assistant Attorney General  
 Litigation Division  
 P.O. Box 12548  
 Austin, Texas 78711  
[Anne.mackin@texasattorneygeneral.gov](mailto:Anne.mackin@texasattorneygeneral.gov)

**Re: Second Supplemental Notice of Texas' Failure to Comply with  
 Voter Registration Obligations at the Department of Public  
 Safety**

Dear Ms. Mackin,

I write to again supplement our May 27<sup>th</sup> Notice Letter (attached and incorporated herein by reference) with the name of another Texas voter who attempted to update his voter registration information when changing his address online at [www.tx.dps.state.tx.us](http://www.tx.dps.state.tx.us). This letter provides formal notice to the State of NVRA violations under 52 U.S.C. § 20510(b) on behalf of John Woods and others similarly situated.

Mr. Woods moved from Travis County to Harris County in June 2015. In September 2015, Mr. Woods changed his driver's license address online, and believed that his voter registration records were updated as well. Shortly thereafter, Mr. Woods went to a local library, where he was offered an opportunity to register to vote. He declined that opportunity, however, because he believed that his voter registration records had already been updated. Mr. Woods called Harris County on Election Day 2015, trying to identify his polling location. Mr. Woods was informed that he was not registered in Harris County, but was still registered in Travis County, and that any provisional ballot cast in Harris County would likely not be counted. Nonetheless, Mr. Woods went to his local polling location and cast a provisional ballot. On November 17, Mr. Woods was informed by the county clerk that his provision ballot was not counted.

As set out in our Original and First Supplemental Notice Letter, every time an eligible resident renews or updates his or her driver's license with DPS, the NVRA requires that

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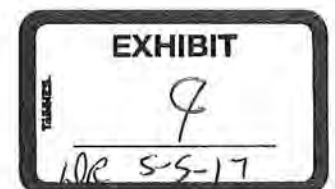
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EXHIBIT C PAGE 171

APPENDIX 26





Anne Marie Mackin  
November 18, 2015  
Page 2 of 2

DPS simultaneously register that person to vote or update that person's voter registration file, unless the applicant fails to sign the form or indicates that he or she does not wish to update his or her information for voter registration purposes. Unfortunately, the State is not complying with the NVRA's mandates.

We remain willing to meet or speak with you to discuss our First Supplemental Notice Letter, as well as this Second Supplemental Notice Letter and the state of Alabama's recent agreement to address NVRA violations, including online-transaction violations. In any event, please advise as to whether the State maintains the positions articulated in your June 23<sup>rd</sup> and September 10<sup>th</sup> letters.

Sincerely yours,



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Attachment: Alabama-DOJ MOU

# EXHIBIT 4

## TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. LAMAR BLVD • BOX 4087 • AUSTIN, TEXAS 78773-0001

512/424-2000

[www.dps.texas.gov](http://www.dps.texas.gov)



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STEVEN P. MACH  
RANDY WATSON

September 9, 2015

Keith Ingram  
Director of Elections  
Texas Secretary of State  
P.O. Box 12060  
Austin, Texas 78711

Dear Director Ingram:

This is to update you on the voter registration program at the Department of Public Safety. Enclosed you will find the Department's current National Voter Registration Act Implementation Plan regarding the implementation of voter registration procedures under Chapter 20 of the Texas Elections Code. This plan is being provided in accordance with Texas Election Code §20.004(c). The Department will continue to review this plan following each legislative session and make appropriate modifications as necessary.

For the past several years the Department's voter registration program has been overseen by Sheri Gipson, Senior Manager, Driver License Division and other staff members. As Ms. Gipson has retired, the Department has appointed new agency coordinators. Effective immediately, Tony Rodriguez, Senior Manager, Customer Operations and Bob Myers, Training Specialist, Customer Support will be the persons responsible for the coordination of the Department's voter registration program. Mr. Myers is responsible for the training of agency employees in voter registration procedures and policy and Mr. Rodriguez oversees the program in our driver license offices statewide. The contact information for the coordinators can be found in the Implementation Plan.

Please feel free to contact me if you are in need of additional information or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Peters'.

Joe Peters  
Assistant Director  
Driver License Division

JP:ktmd

Enclosure



## Texas Department of Public Safety National Voter Registration Act Implementation Plan

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1. The National Voter Registration Act (NVRA) coordinators are:

Tony Rodriguez  
Senior Manager, Customer Operations  
DPS Driver License Division  
5805 North Lamar Blvd.  
Austin Texas 78752  
(512) 424-5657

Bob Myers  
Training Specialist, Customer Support  
DPS Driver License Division  
5805 North Lamar Blvd.  
Austin Texas 78752  
(512) 424-5538

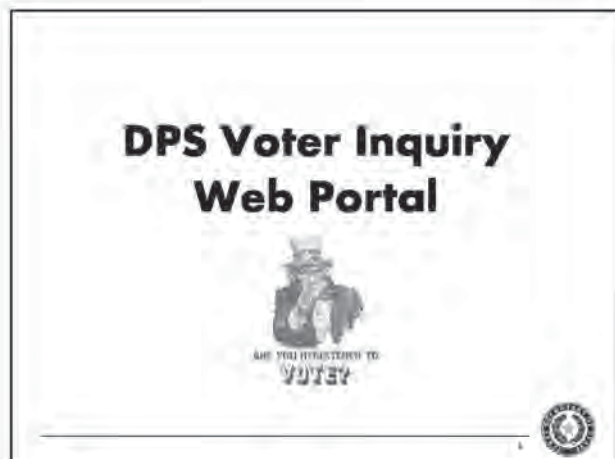
2. The Texas Department of Public Safety (DPS) will be required to provide voter registration services. This will be accomplished through the driver licensing program managed by the Driver License Division.
3. Basic overview of procedures:
  - a. The Department of Public Safety will provide to each person who applies in person at the Department's driver license offices for an original or renewal of a driver license, a personal identification card, a duplicate or corrected license or card or an election identification certificate (EIC) an opportunity to complete a voter registration application form.
  - b. The Department will use a form and procedure that combines the department's application form for a license, identification card or EIC with an officially prescribed voter registration application form. The form includes the opportunity for the applicant to indicate whether they desire to register to vote, or if registered, to update their voter information. The form will also inform the applicant that the applicant's electronic signature provided to the department will be used for submitting the applicant's voter registration application
  - c. The department will use a change of address form and procedure that combines department and voter registration functions. The change of address form submitted in person will allow a licensee or cardholder to



indicate whether the change of address is also to be used for voter registration purposes.

- d. Each weekday the Department is regularly open for business, the Department will electronically transfer to the Secretary of State (SOS) the name and relevant data regarding each applicant who is of voting age and a United States citizen who affirmatively answered the voter registration question. The scope of the information provided and method of data transfer will be established by the Department and SOS.
  - e. When the Department mails current license or identification card holders notice advising the applicant they are eligible to renew their driver license or identification card by mail the mailing will include an officially prescribed voter registration application form.
  - f. For applications submitted at driver license offices the customer service representatives:
    - i. provide each applicant for an original or renewal of a driver license, a personal identification card, a duplicate or corrected license or card or an EIC the required application form which includes the opportunity for the applicant to indicate whether they desire to register to vote, or if registered, to update their voter information;
    - ii. follow Department instructions and training regarding entering applicant data into the Driver License System (DLS) database;
    - iii. provide a receipt to the applicant prior to the conclusion of the transaction and have the applicant verify all information, including the applicant's response to the voter registration question.
    - iv. Issue a receipt which includes a photographic image to the applicant.
  - g. Online renewal of driver license or identification card or change of address.
    - i. The online renewal and online address change process through Texas.gov will include a link to websites providing information regarding how to register to vote in Texas.
4. Basic overview of training: The DLD NVRA Coordinator from the DLD Training Unit or the DLD training specialists will provide NVRA training during new employee orientation. The DLD will provide additional training as needed during regional and divisional meetings and during regular in-service training provided to DLD employees.
  5. Voter registration services are available at all driver license offices during regular business hours. Office hours vary based on location. The hours of operation for each office are available online. The majority of driver license offices are open between 8:00 a.m. to 5:00 p.m., Monday through Friday.

# EXHIBIT 5




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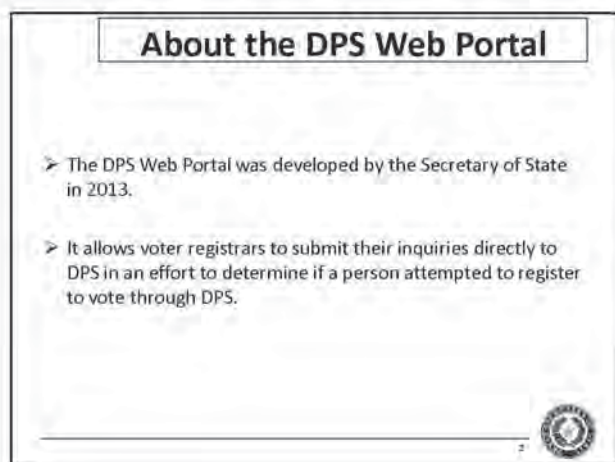
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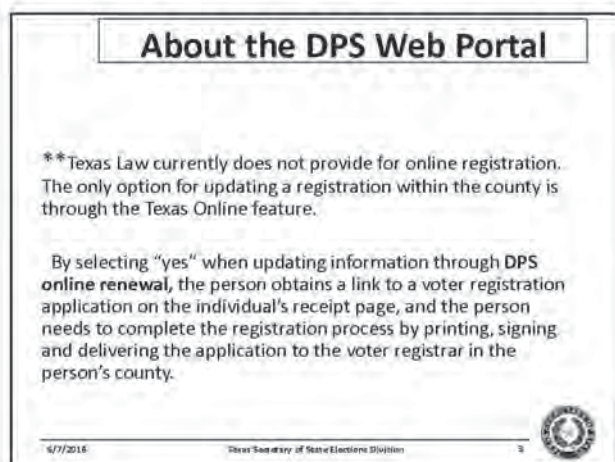
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# EXHIBIT 6



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**CERTIFIED  
TRANSCRIPT**

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APPENDIX 36

STRINGER: BRIAN KEITH INGRAM

<p style="text-align: right;">Page 6</p> <p>1 of this deposition on the record, please.</p> <p>2 BRIAN KEITH INGRAM,</p> <p>3 having been first duly sworn, testified as follows:</p> <p>4 EXAMINATION</p> <p>5 BY MS. STEVENS:</p> <p>6 Q. Good morning, Mr. Ingram.</p> <p>7 A. Howdy.</p> <p>8 Q. Would you please state and spell your full</p> <p>9 name?</p> <p>10 A. My name is Brian Keith Ingram. B-R-I-A-N,</p> <p>11 K-E-I-T-H, I-N-G-R-A-M.</p> <p>12 Q. Thank you. And you go by Keith Ingram. Is</p> <p>13 that correct?</p> <p>14 A. I do.</p> <p>15 Q. Okay. My name is Beth Stevens. I'm from the</p> <p>16 Texas Civil Rights Project. And we have not met before</p> <p>17 this morning. Is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. You've had your deposition taken</p> <p>20 before, have you not?</p> <p>21 A. I have.</p> <p>22 Q. How many times?</p> <p>23 A. I was trying to think of that on the way over</p> <p>24 here. At least three that I can think of, but maybe one</p> <p>25 more.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Sure.</p> <p>2 Q. And --</p> <p>3 THE VIDEOGRAPHER: Counsel, forgive the</p> <p>4 interruption, but can we go off the record for a minute?</p> <p>5 MS. STEVENS: Sure.</p> <p>6 (Discussion off the record)</p> <p>7 (Recess from 9:36 a.m. to 9:37 a.m.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record at 9:37 a.m. I incorrectly announced the start</p> <p>10 time of the deposition as 8:34, and the camera time was</p> <p>11 incorrectly set. It's now correctly set at 9:37 a.m.</p> <p>12 Thank you.</p> <p>13 Q. (By Ms. Stevens) The last deposition rule I</p> <p>14 was going to go over is if I phrase a question that is</p> <p>15 confusing in any way to you, will you please let me know</p> <p>16 that you don't understand or you'd like me to rephrase?</p> <p>17 Can you agree to that?</p> <p>18 A. I can.</p> <p>19 Q. Okay. Will you agree to that? Do you agree</p> <p>20 to that?</p> <p>21 A. Certainly.</p> <p>22 Q. Okay. Thank you. If you -- if you go ahead</p> <p>23 and answer the question as I posed it, I'm going to</p> <p>24 assume that you understood the question. Is that fair?</p> <p>25 A. That's fair.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Okay. And the three that you recall, what</p> <p>2 cases were those in?</p> <p>3 A. Twice in voter ID, and once in a redistricting</p> <p>4 case involving the Edwards Aquifer. Oh, there was</p> <p>5 another deposition. Yes. A forth one was in a case</p> <p>6 that Buck Wood filed about our Death Master File</p> <p>7 process. I don't remember the name of that case.</p> <p>8 Q. You're an attorney. Is that correct?</p> <p>9 A. I am.</p> <p>10 Q. So you're pretty familiar with the deposition</p> <p>11 rules?</p> <p>12 A. I am.</p> <p>13 Q. Okay. I'm going to go over just a couple just</p> <p>14 so we can have it on the record. I'll ask you to let me</p> <p>15 finish answer -- excuse me -- asking my question before</p> <p>16 you start answering, and I'll try to do the same for</p> <p>17 you. Is that okay?</p> <p>18 A. Sure.</p> <p>19 Q. And if you'll answer out loud instead of a nod</p> <p>20 or a shake of the head, that will make it easier for our</p> <p>21 court reporter. Okay?</p> <p>22 A. Okay.</p> <p>23 Q. And if you need a break, let me know. I'll</p> <p>24 just ask you to answer the last question that we've got</p> <p>25 on -- that I've stated before we take the break. Okay?</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Thank you.</p> <p>2 A. If I don't understand the question, I'll let</p> <p>3 you know.</p> <p>4 Q. Thank you. All right. Mr. Ingram, in the --</p> <p>5 well, you understand that you're here today to testify</p> <p>6 in a 30(b)(6) capacity, do you not?</p> <p>7 A. Yes.</p> <p>8 Q. And have you testified on behalf of the</p> <p>9 Secretary of State in a 30(b)(6) capacity before?</p> <p>10 A. I have.</p> <p>11 Q. Would you please indicate which of those</p> <p>12 depositions you referenced were in a 30(b)(6) capacity?</p> <p>13 A. All of them.</p> <p>14 Q. Okay. And you understand that this</p> <p>15 deposition -- the 30(b)(6) deposition -- is --</p> <p>16 A. I take it back. The two -- the Edwards</p> <p>17 Aquifer and the Death Master File was whatever the state</p> <p>18 equivalent of that is.</p> <p>19 Q. Those were state court cases?</p> <p>20 A. They were.</p> <p>21 Q. You understand that a 30(b)(6) deposition is</p> <p>22 different from an individual deposition. Is that</p> <p>23 correct?</p> <p>24 A. I do.</p> <p>25 Q. Okay. And you're here today as a</p>

STRINGER: BRIAN KEITH INGRAM

<p style="text-align: right;">Page 10</p> <p>1 representative of the Secretary of State of the State of 2 Texas?</p> <p>3 A. I'm -- yes, ma'am.</p> <p>4 Q. Okay. You've been offered by the Secretary of 5 State to appear on the Secretary of State's behalf and 6 give testimony for the Secretary of State?</p> <p>7 A. Right.</p> <p>8 Q. Do you understand that the Secretary of State 9 is bound by the testimony that you give at this 10 deposition?</p> <p>11 A. I'm aware.</p> <p>12 Q. And do you understand that unless I say 13 otherwise, I'm not asking for your personal opinion; 14 rather, I'm asking for an answer that reflects the 15 position of the Secretary of State's Office?</p> <p>16 A. Yes, ma'am. And if I give my opinion, I'll 17 try to mark it as so.</p> <p>18 Q. Thank you. You've provided verified responses 19 to interrogatories in this case. Is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. Have you provided verified responses to 22 interrogatories in any other cases?</p> <p>23 A. I have.</p> <p>24 Q. Any besides -- well, did you provide them in 25 the cases that you provided deposition testimony on?</p>	<p style="text-align: right;">Page 12</p> <p>1 A. I will endeavor to do so.</p> <p>2 Q. All right. In preparing for this deposition, 3 did you speak to anyone?</p> <p>4 A. Yes.</p> <p>5 Q. To whom did you speak?</p> <p>6 A. I spoke to my counsel and my general counsel 7 last Friday.</p> <p>8 Q. Did you speak to anyone else in preparation 9 for this deposition?</p> <p>10 A. I did.</p> <p>11 Q. Who did you speak to?</p> <p>12 A. I spoke to Ann McGeehan, who was in my job 13 before me, and I spoke to Melanie Best, who is a lawyer 14 in my office.</p> <p>15 Q. And Ann McGeehan, she was the former Director 16 of Elections. Is that right?</p> <p>17 A. She was.</p> <p>18 Q. And that's your current title. Is that 19 correct?</p> <p>20 A. It is.</p> <p>21 Q. Do you know how long Ms. McGeehan was the 22 Director of Elections?</p> <p>23 A. I'm not sure exactly when she started. I 24 think she started in '92 or '93. She was the legal 25 director before she was the elections director, so I'm</p>
<p style="text-align: right;">Page 11</p> <p>1 A. I don't know if we actually did written 2 interrogatories in the two state cases. I know we did 3 in the federal cases. If we gave written interrogatory 4 answers in the two state cases, then I'm the one that 5 verified them. I just don't know for sure if we did 6 written 'rogs.</p> <p>7 Q. And the two federal cases that you referenced, 8 you did provide the verification for those 9 interrogatories?</p> <p>10 A. Yes, and I might have in another case, but I 11 don't know if we did interrogatories in not that case 12 either. It was a Project Vote case on our volunteer 13 deputy registrar program back in 2012. I just don't 14 know if we did interrogatories in that. I think we did, 15 but I'm not sure. It was a preliminary injunction 16 hearing as far as the case went.</p> <p>17 Q. And if anyone provided verified 18 interrogatories on behalf of the Secretary of State, it 19 would have been you. Is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And lastly on this sort of preliminary 22 30(b)(6) issue, you understand that even though you may 23 not have personal knowledge of a question that I ask, 24 you can still provide the knowledge relevant to the 25 Secretary of State's Office?</p>	<p style="text-align: right;">Page 13</p> <p>1 not sure when that transition occurred. And she retired 2 in November of 2011 and went to work for the County 3 Retirement System.</p> <p>4 Q. Was there a Director of Elections prior to 5 Ms. McGeehan?</p> <p>6 A. There was.</p> <p>7 Q. And who was that?</p> <p>8 A. What's his name? He's the general counsel of 9 the County Retirement System that Ann McGeehan works for 10 now. I can't think of his name.</p> <p>11 Q. Okay. Did you -- did you talk to anyone else 12 other than the individuals you've identified in 13 preparation for this deposition?</p> <p>14 A. No.</p> <p>15 Q. Did you review --</p> <p>16 A. Not specifically in preparation for this 17 deposition. Betsy and I talk all the time.</p> <p>18 Q. And the --</p> <p>19 A. So we've talked about this case. We talked 20 about her deposition. We talked about the fact that my 21 deposition was coming, but I don't think that we talked 22 about anything specifically to prepare for this 23 deposition.</p> <p>24 Q. And Betsy is Betsy Schonhoff. Is that 25 correct?</p>



STRINGER: BRIAN KEITH INGRAM

<p style="text-align: right;">Page 50</p> <p>1 Q. So you identified for me or explained to me 2 why -- what the electronic signature or the keypad 3 signature at DPS is used for. It's used for the 4 signature that's required in the Texas Election Code. 5 You read me the section. Is that right? 6 A. That's right. 7 Q. What's the ink signature on the DPS's physical 8 forms used for as far as voter registration? 9 A. I don't know. I don't know if it's used for 10 anything. Once they've applied in person at the office, 11 they've signed it electronically. I guess if there ever 12 was a question, that we'd have to go through the web 13 portal or the 701 email address about whether or not the 14 voter signed it. If for some reason the electronic 15 version didn't have the signature, they would have to go 16 back and look at the physical application form from DPS 17 to get the signature. 18 Q. Would the -- in the scenario you just 19 described, would the voter have to provide their 20 signature again so it would be on the actual voter 21 registration form? 22 A. No. No. They've already signed. They signed 23 the physical form and they signed electronically, and 24 for some reason if we don't get that signature with the 25 application, we'll go back to DPS and get the physical</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Well, on the -- 2 A. Except for maybe city and county of former 3 residence, but I bet whenever they generate one of these 4 from DPS, that's blank, and that's an optional blank, so 5 it doesn't have to be filled in. 6 Q. The optional field you're referencing is the 7 city and county of former residence, No. 5 on the voter 8 registration application? 9 A. That's right. 10 Q. Look for me, if you will, at No. 10 where the 11 person signing confirms that they understand -- well, it 12 says, "I understand that giving false information to 13 procure a voter registration is perjury, and a crime 14 under state and federal law. Conviction of this crime 15 may result in imprisonment up to 180 days, a fine up to 16 \$2,000, or both. Please read all three" -- three is 17 underlined -- "statements to affirm before signing." 18 And then in bullet points, the first one 19 is, "I am a resident of this county and a U.S. citizen." 20 The second bullet is, "I have not been finally convicted 21 of a felony, or if a felon, I have completed all of my 22 punishment including any term of incarceration, parole, 23 supervision, period of probation, or I have been 24 pardoned." And third bullet point, "I have not been 25 determined by a final judgment of a court exercising</p>
<p style="text-align: right;">Page 51</p> <p>1 application. 2 Q. And the -- 3 A. The county will. 4 Q. Sorry. The physical application you're 5 referencing is the driver's license application. 6 Correct? 7 A. Right, or the renewal application. 8 Q. But a DPS form not a -- not a voter 9 registration form? 10 A. That's right. 11 Q. And when you say the county will get it, do 12 they actually somehow extract the ink signature or copy 13 the ink signature onto a voter registration form at that 14 point? 15 A. No. They get the -- they get the DPS 16 application. 17 Q. But the DPS application form doesn't have all 18 of the -- all of the fields that are on the voter 19 registration application. Correct? 20 A. That's right. I mean, we can go through and 21 see. I don't know what it wouldn't have. 22 Q. Well, we'll get there in a little bit. That's 23 okay. 24 A. Okay. I mean, it's not in the same form, but 25 it's got the same information.</p>	<p style="text-align: right;">Page 53</p> <p>1 probate jurisdiction to be totally mentally 2 incapacitated or partially mentally incapacitated 3 without the right to vote." 4 Did I read all that correctly? 5 A. You did. 6 Q. And just below that section that I read is 7 the -- where the signature is required. Is that 8 correct? 9 A. That's right. 10 Q. That section, Section 10, is not on the 11 driver's license application. Correct? 12 A. I agree with that. 13 Q. When your office is asked to provide advice as 14 far as voter registration questions go to the Department 15 of Public Safety, who is your contact at the Department 16 of Public Safety for those issues? 17 A. Generally if I have a question about anything 18 at DPS I would call Joe Peters, and I guess henceforth 19 it will be Skylor Hearn. 20 Q. What about DPS contacting your office for 21 voter registration questions? Are those the only 22 individuals who would contact you about those questions? 23 A. Well, it depends on the question. If they had 24 a question, you know, of a more general global sense 25 they would definitely call me. If they had a question</p>

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<p style="text-align: right;">Page 62</p> <p>1 of the question on the online DPS application?</p> <p>2 MS. MACKIN: Objection; form.</p> <p>3 A. I don't know what you mean.</p> <p>4 Q. (By Ms. Stevens) Why is there a voter</p> <p>5 registration question on the online DPS transaction --</p> <p>6 application? Excuse me.</p> <p>7 A. Well, I imagine it's because of Section 5 of</p> <p>8 the National Voter Registration Act of 1993.</p> <p>9 Q. Could you elaborate on that a little bit?</p> <p>10 A. Sure. The National Voter Registration Act of</p> <p>11 1993 required that motor vehicle agencies, in our case</p> <p>12 the DPS, whenever a person has a driver's license</p> <p>13 transaction -- driver license transaction, that they</p> <p>14 should be simultaneously offered the right -- the</p> <p>15 ability to update their voter registration or register</p> <p>16 to vote for the first time. That's why the NVRA is</p> <p>17 called the Motor Voter law.</p> <p>18 Q. And DPS's compliance with that law for</p> <p>19 in-person transactions is the question that we've looked</p> <p>20 at on the -- on the DPS forms, "Do you want to register</p> <p>21 to vote? I've agreed to provide my electronic</p> <p>22 signature, and it can be sent to the Secretary of</p> <p>23 State's Office."</p> <p>24 Is that right?</p> <p>25 MS. MACKIN: Objection; form.</p>	<p style="text-align: right;">Page 64</p> <p>1 between the two.</p> <p>2 A. Well, the NVRA doesn't require equivalent</p> <p>3 opportunities to register to vote. It requires</p> <p>4 simultaneous opportunities to register to vote. The</p> <p>5 automated process didn't come along until 2010. The</p> <p>6 NVRA has been in place since 1993. So there used to be</p> <p>7 a very similar process in person visits to the DPS as</p> <p>8 well. They had to fill out a voter registration</p> <p>9 application, and the difference was that DPS would</p> <p>10 deliver it to the voter registrar instead of the voter</p> <p>11 having to mail it, but it was almost the same except for</p> <p>12 that. The fact that they've automated the process at</p> <p>13 the offices doesn't mean that the process has to be</p> <p>14 automated online.</p> <p>15 Q. Why not?</p> <p>16 A. The NVRA does not require that. Now, whether</p> <p>17 or not it's a good idea and whether or not -- why, you</p> <p>18 know, should it happen, that's a DPS question. That's</p> <p>19 not our question.</p> <p>20 Q. Let me unpack that a little bit. I've got two</p> <p>21 questions there. You said that the NVRA requires the</p> <p>22 opportunity to register to vote at the time that you</p> <p>23 transact with the driver's license authority?</p> <p>24 A. It requires a simultaneous opportunity to</p> <p>25 register to vote, yes.</p>
<p style="text-align: right;">Page 63</p> <p>1 A. Yes.</p> <p>2 Q. (By Ms. Stevens) Tell me why there's a</p> <p>3 difference between the DPS in-person transaction where</p> <p>4 the information is sent on to the Secretary of State's</p> <p>5 Office to send to the voter registration authorities</p> <p>6 versus on the online transaction where it merely sends</p> <p>7 you to a link to the Secretary of State's Office --</p> <p>8 website? Excuse me.</p> <p>9 A. So I don't know -- why is a hard question.</p> <p>10 Why is probably a DPS question.</p> <p>11 Q. Are you saying that the Secretary of State</p> <p>12 hasn't provided any advice or counsel on whether those</p> <p>13 two transactions in person versus online should be the</p> <p>14 same?</p> <p>15 A. No, we certainly haven't. The NVRA requires a</p> <p>16 simultaneous opportunity to register to vote. DPS is</p> <p>17 providing that in both transactions, so I don't see</p> <p>18 what -- I don't see what you're getting at.</p> <p>19 Q. Well, the in-person transaction is a seamless</p> <p>20 automated transaction after the person checks that they</p> <p>21 want to register to vote and provide their electronic</p> <p>22 signature versus the online transaction where there are</p> <p>23 multiple other steps. You have to go to the Secretary</p> <p>24 of State's website, print out the form, fill it out.</p> <p>25 I'm trying to understand why there's a distinction</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. So if I -- if I told you that the NVRA doesn't</p> <p>2 use the word "opportunity," what would you say to that?</p> <p>3 A. I understand what you're saying, and the judge</p> <p>4 can -- can tell us what -- you know, what that means. I</p> <p>5 understand it's a simultaneous opportunity to register</p> <p>6 to vote or update your voter registration information.</p> <p>7 THE REPORTER: I'm sorry. Simultaneous</p> <p>8 opportunity --</p> <p>9 THE WITNESS: To register to vote or</p> <p>10 update your voter registration information.</p> <p>11 Q. (By Ms. Stevens) Rather than simultaneous</p> <p>12 update -- well, let me -- you're adding the word</p> <p>13 "opportunity" in there, and I'm trying to understand the</p> <p>14 online transactions provide the opportunity to register</p> <p>15 to vote through the Secretary of State's website and</p> <p>16 form --</p> <p>17 A. And so does the in-person transaction.</p> <p>18 Q. But the in-person transaction, you'll agree</p> <p>19 with me, is an automated process after checking the box</p> <p>20 and providing an electronic signature. Correct?</p> <p>21 A. The way the application gets to us is</p> <p>22 different, but it's the same -- the opportunity to</p> <p>23 register to vote or update your voter registration is</p> <p>24 offered in both places.</p> <p>25 Q. Except the customer -- correct me if I'm</p>

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<p style="text-align: right;">Page 82</p> <p>1 aware that the -- the answer to the question about voter 2 registration used to default to the no answer? 3 MS. MACKIN: Objection; form. 4 A. No. I had no idea. I saw that in Betsy's 5 deposition, and that was the first that our office, I 6 think, had heard of that. 7 Q. (By Ms. Stevens) When the Department of 8 Public Safety decided to make the change to not default 9 to the no, to require the customer actually make the 10 choice themselves, did the Secretary of State's Office 11 have input in that -- or provide any input on that 12 decision? 13 A. No. 14 Q. Were there any discussions with the Secretary 15 of State's Office and DPS about the change from -- from 16 a default to no to no default? 17 A. It's hard to say. I don't think so. But we 18 talked a lot -- you know, we had the meeting here after 19 the notice letter, and then we talked after that about 20 the way they treated, you know, both yes and no being 21 checked for an in-person, and then we talked about what 22 to do if both of them were left unchecked. And so I 23 don't know if any of those discussions, you know, in 24 DPS's mind also encompassed this. 25 It could be that they were talking about</p>	<p style="text-align: right;">Page 84</p> <p>1 address with the Elections Division? 2 A. It is. 3 Q. Okay. The -- well, let's -- the initial email 4 says, "I just renewed my driver's license online and was 5 dismayed that the 'do you want to register to vote' 6 defaults to 'no.' In my opinion, it should default to 7 'yes' if you want to encourage people to register to 8 vote - which should be a goal of the State and the 9 Elections Division. I hope that this changes in the 10 future. After all, it's not automatic - one does have 11 to take additional steps to actually register. Thanks." 12 And then up above that is the response 13 email from Brenda Hester -- is she in the Elections 14 Division? 15 A. She is. 16 Q. Okay -- to the individual customer, and said, 17 "That is something we can discuss with DPS in the 18 future. Thank you for your input." 19 Did I read that correctly? 20 A. Sure. 21 Q. And Betsy Schonhoff in your office is also 22 copied on that email. Correct? 23 A. She is. 24 Q. Okay. So in -- back in 2012, the Secretary of 25 State's Office was aware that the answer to the "do you</p>
<p style="text-align: right;">Page 83</p> <p>1 this as well as the in-person transactions, and in my 2 mind I only heard it as the in-person transactions, so I 3 don't know for sure. You know, we could have been part 4 of this conversation and just didn't really realize it. 5 Q. The discussions you are talking about with 6 the -- checking both boxes on an in-person, checking no 7 box in person, those occurred in 2015. Is that right? 8 A. Yeah, or early '16. 9 Q. Prior to the initiation of this lawsuit? 10 A. After the notice letter, prior to the lawsuit. 11 I don't remember exactly when this got filed. 12 MS. STEVENS: If you could mark that as 13 9, please. 14 (Exhibit No. 9 marked) 15 Q. (By Ms. Stevens) I'm handing you Exhibit 9, 16 Mr. Ingram. If you'll just look over that and let me 17 know when you're done. 18 A. Yes, I saw this. 19 Q. And this one is marked as confidential, so we 20 won't reference the customer's name, but this is an 21 email string from November of 2012. Is that correct? 22 A. It is. 23 Q. And it -- it looks like initially it's from 24 a -- just a member of the public to the "Elections 25 Internet" is what the to line shows. Is that an email</p>	<p style="text-align: right;">Page 85</p> <p>1 want to register to vote" question online was defaulting 2 to no. Is that correct? 3 A. Right. 4 MS. MACKIN: Objection; form. 5 Q. (By Ms. Stevens) Was there any -- any 6 discussion at that point with the Department of Public 7 Safety to -- to make that change? 8 A. Not that I recall. 9 Q. Well, what about that the Secretary of State's 10 Office recalls, since we're here for a 30(b)(6)? 11 A. That's what I -- I don't -- I don't think that 12 we had that discussion. Betsy might have. You know, 13 you saw her testimony on this topic, and we can read 14 that if you want to. 15 Q. Well, I think, since you're here on behalf of 16 the entity, that you're required to provide the entity's 17 response. So did the entity -- did the Secretary of 18 State have any discussions with the DPS back in 2012 19 about changing that default from no to what it is now? 20 A. I don't know. 21 Q. Are you able to find out? 22 A. Betsy would be the one that would know, and 23 you read her testimony on this topic. So I can ask 24 Betsy, but she'll probably give me the same answers. I 25 do not believe that we had such discussions. But again,</p>



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<p style="text-align: right;">Page 94</p> <p>1 Q. But we've gone over, have we not, that the</p> <p>2 driver's license application does not have all of the</p> <p>3 information or questions that a -- hold on -- a voter</p> <p>4 registration application has on it. Is that correct?</p> <p>5 A. That's right.</p> <p>6 Q. Okay. So the signature as needed under the</p> <p>7 Texas Election Code that you keep referencing is needed</p> <p>8 on the voter registration form, not the driver's license</p> <p>9 form. Correct?</p> <p>10 MS. MACKIN: Objection; form.</p> <p>11 A. No, that is not correct.</p> <p>12 Q. (By Ms. Stevens) Explain why it's not</p> <p>13 correct.</p> <p>14 A. The Texas Election Code requires that an</p> <p>15 application for voter registration be in writing and</p> <p>16 signed by the applicant. That is what happens at DPS.</p> <p>17 And the voter not only signs once. They</p> <p>18 sign twice. They sign the DL application that says "I</p> <p>19 want to register to vote," and then they -- that also</p> <p>20 swears they're a citizen and that they're over 18 and</p> <p>21 all of the stuff that's contained in that application --</p> <p>22 and they also sign a signature capture device that has</p> <p>23 the attestations for the voter registration.</p> <p>24 Now, when we get a voter registration</p> <p>25 application from DPS, once in a while the data regarding</p>	<p style="text-align: right;">Page 96</p> <p>1 Texas Election Code?</p> <p>2 A. The physical signature that's electronically</p> <p>3 captured, yes.</p> <p>4 Q. Okay. Back to your point about the online</p> <p>5 transactions not containing a signature, the DPS does</p> <p>6 use the prior provided electronic signature that -- for</p> <p>7 the driver's license that they -- the customer used --</p> <p>8 provided the last time they were in person. Correct?</p> <p>9 A. Presumably, yes.</p> <p>10 Q. The same goes for the mail-in change of</p> <p>11 address transaction -- are you looking at your driver's</p> <p>12 license there?</p> <p>13 A. Yeah. Because this one was renewed online,</p> <p>14 and so I guess that I wrote that signature at their</p> <p>15 signature capture device quite a while ago.</p> <p>16 Q. Okay. And you're aware that you have to</p> <p>17 transact in person with DPS every other transaction?</p> <p>18 A. Yes.</p> <p>19 Q. For the mail-in change of address form that --</p> <p>20 I think that's an exhibit in front of you -- that DPS</p> <p>21 receives that has the voter registration question, there</p> <p>22 is not an electronic signature or a -- use your</p> <p>23 phrase -- the physical signature provided on a keypad</p> <p>24 provided for that change of address interaction.</p> <p>25 Correct?</p>
<p style="text-align: right;">Page 95</p> <p>1 the signature doesn't transmit. So we can use, in lieu</p> <p>2 of that signature capture device signature, the physical</p> <p>3 signature, because that -- it might not be exactly the</p> <p>4 same, but it's saying, "I want to register to vote," and</p> <p>5 it's a physical signature. Right?</p> <p>6 Whenever somebody does an online</p> <p>7 transaction at DPS, they don't sign anything. There is</p> <p>8 no signature electronically captured or otherwise, and</p> <p>9 that does not comply with the Texas Election Code.</p> <p>10 There is nothing for them to sign. There is no</p> <p>11 signature captured. There is no signature. There is</p> <p>12 nothing.</p> <p>13 Q. On the -- let's backtrack just a little bit.</p> <p>14 On the driver's license forms that we've looked at -- I</p> <p>15 think they're Exhibits 4 and 5 -- it says, "By providing</p> <p>16 my electronic signature, I understand the personal</p> <p>17 information on my application form and my electronic</p> <p>18 signature will be used for submitting my voter</p> <p>19 registration application to the Secretary of State's</p> <p>20 Office."</p> <p>21 Correct?</p> <p>22 A. That's what it says.</p> <p>23 Q. Okay. And so that's indicating to the</p> <p>24 prospective voter that the electronic signature is</p> <p>25 what's used as the signature that's compliant with the</p>	<p style="text-align: right;">Page 97</p> <p>1 MS. MACKIN: Objection; form.</p> <p>2 A. No. There's a physical signature on the -- on</p> <p>3 the address change application.</p> <p>4 Q. (By Ms. Stevens) Right. But the information</p> <p>5 that gets sent on to the voter registrars through the</p> <p>6 Secretary of State's Office is the data that's pulled</p> <p>7 from that form and then the electronic signature that</p> <p>8 was previously provided by the customer in person at a</p> <p>9 DPS office?</p> <p>10 A. That's my understanding, yes.</p> <p>11 Q. Well, is that the Secretary of State's</p> <p>12 understanding?</p> <p>13 A. That is the Secretary of State's</p> <p>14 understanding. You bet.</p> <p>15 Q. So in that same way, the online transaction</p> <p>16 could utilize the previously provided electronic</p> <p>17 signature that was provided in person by the customer</p> <p>18 for the voter registration application form that gets to</p> <p>19 the voter registrar in the same way that the change of</p> <p>20 address mail-in occurs?</p> <p>21 A. It could if the law allowed it, but the law</p> <p>22 doesn't allow it, so it can't.</p> <p>23 Q. What portion of the law doesn't allow it?</p> <p>24 A. 13.002(b).</p> <p>25 THE REPORTER: As in boy?</p>

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<p style="text-align: right;">Page 170</p> <p>1 for online counties, and it was presented at our county 2 election seminar on the third day. I just don't know 3 which year.</p> <p>4 And it doesn't look like something that 5 Betsy would have done, so probably it's old, but it -- 6 you know, this doesn't look like our current VR 7 section's work product, so I would imagine it's from a 8 seminar prior to the 30th Election Law Seminar.</p> <p>9 Q. And what year was that?</p> <p>10 A. The 30th Election Law Seminar was in 2012.</p> <p>11 Q. The -- it looks like the -- I just have a 12 document with the meta data, but it looks like it was 13 from 2013.</p> <p>14 A. Okay. That's conceivable, but -- I mean, I 15 can tell it's old.</p> <p>16 Q. Okay. And can you tell me why entire pages 17 would have been redacted in the production to us?</p> <p>18 A. For the same reason as the document 19 Exhibit 12, because it's got technical data information.</p> <p>20 Q. In the form of --</p> <p>21 A. Screenshots and that sort of thing.</p> <p>22 Q. Is there something other than screenshots that 23 would show the technical data information that you're 24 referencing?</p> <p>25 A. I don't know. Sometimes Betsy puts on there</p>	<p style="text-align: right;">Page 172</p> <p>1 A. So whenever we get the batch file from DPS and 2 send it to the counties, it shows up as a task for them 3 to work. They've got a new voter registration 4 application from DPS that they need to put through the 5 live check system and get a VUID back. They've got to 6 finish the process of registering the voter. The voter 7 is not registered just because they've got an 8 application file out there in the world. They have to 9 work that file.</p> <p>10 Q. And those are the tasks that are referenced 11 here, the -- run it through live check and then --</p> <p>12 A. No.</p> <p>13 Q. -- what else?</p> <p>14 A. No. The task that's here is you get -- you 15 get -- whenever you turn on your computer for the day 16 and you log onto TEAM, before we had the dashboard, we 17 had tasks to work. And so you would have 50 DPS 18 application tasks, because that's 50 DPS applications 19 that you need to run through the registration process 20 and get a VUID assigned to them.</p> <p>21 Q. Through the new redeveloped TEAM, do they 22 still have to do those tasks even if they're not called 23 that same thing?</p> <p>24 A. That's right. They still show up on their 25 dashboard, and on their dashboard, they've got 50 DPS</p>
<p style="text-align: right;">Page 171</p> <p>1 buttons and, you know, pictures of the buttons and the 2 drop-down menus and stuff. This would have been old 3 TEAM.</p> <p>4 Q. And the buttons you're referencing, though, 5 are within the TEAM system?</p> <p>6 A. Yes, in the web interface.</p> <p>7 Q. If you would turn to Page 10, I'll ask you 8 some questions about that. Are you there?</p> <p>9 A. Yes.</p> <p>10 Q. All right. At the top, it says, "What if I 11 don't finish all DPS pending tasks?"</p> <p>12 Did I read that correctly?</p> <p>13 A. Yes.</p> <p>14 Q. And then there are three bullet points. The 15 first one says, "Your official list of registered voters 16 will not contain all otherwise eligible voters."</p> <p>17 The second bullet says, "Voters who would 18 otherwise be eligible may have to cast a provisional 19 ballot."</p> <p>20 And the third says, "Reimbursement will 21 be delayed for these records until you complete the 22 tasks."</p> <p>23 What are the DPS pending tasks that this 24 PowerPoint reference -- or excuse me -- this page 25 references?</p>	<p style="text-align: right;">Page 173</p> <p>1 registrations to work.</p> <p>2 Q. So it says that "voters who would otherwise be 3 eligible may have to cast a provisional ballot." Why is 4 that? What --</p> <p>5 A. Because they didn't get registered. If you 6 don't work your DPS tasks, you're not registering the 7 voter.</p> <p>8 Q. Okay.</p> <p>9 A. The voter is not registered until the voter 10 registrar registers them.</p> <p>11 Q. What's the --</p> <p>12 THE REPORTER: I'm sorry. Until the 13 voter registrar?</p> <p>14 THE WITNESS: Registers them.</p> <p>15 THE REPORTER: Thank you.</p> <p>16 Q. (By Ms. Stevens) What's the timeframe that 17 the voter registrar has between receipt of the voter 18 registration form and when the voter has to be 19 registered?</p> <p>20 A. There's not a specific timeframe for that. 21 The voter needs to have a voter registration certificate 22 within 30 days.</p> <p>23 Q. And that's generated by the voter registrar?</p> <p>24 A. That's right. Whenever the voter registration 25 is successfully completed, the system kicks out a VR</p>

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<p style="text-align: right;">Page 174</p> <p>1 certificate.</p> <p>2 Q. And the 30 days starts running from the time</p> <p>3 that the voter submits the voter registration</p> <p>4 application. Is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Does the Secretary of State's Office --</p> <p>7 A. That's for all applications, paper or DPS.</p> <p>8 Q. That 30-day timeframe?</p> <p>9 A. Yes.</p> <p>10 Q. Does the Secretary of State ensure that</p> <p>11 counties finish their DPS pending tasks before elections</p> <p>12 so that all eligible -- all eligible voters can cast a</p> <p>13 regular ballot?</p> <p>14 A. We don't -- I don't know what you mean by</p> <p>15 "ensure." We don't tell counties what to do. We</p> <p>16 strongly encourage them to get their work done.</p> <p>17 Q. Okay.</p> <p>18 A. There's no ensuring anything by a county. We</p> <p>19 have on our TEAM system information about how many are</p> <p>20 unworked, and we will call the counties that have a</p> <p>21 substantial number of unworked ones and ask them what</p> <p>22 the deal is and why aren't they finishing.</p> <p>23 Q. And what if they said, "We're just not going</p> <p>24 to do it"?</p> <p>25 A. That never happens, but if it did, we would</p>	<p style="text-align: right;">Page 176</p> <p>1 associate the voters to the precinct. And it was a</p> <p>2 time-consuming, laborious, manual process. The new TEAM</p> <p>3 is automated. When you create the precinct, the voters</p> <p>4 are in it.</p> <p>5 Q. So this slide within the PowerPoint is</p> <p>6 obsolete now?</p> <p>7 A. It is.</p> <p>8 Q. Okay. Turn with me, please, to Page 12. This</p> <p>9 says at the top, "What about the," in quotes, "'SC 91</p> <p>10 from FPCA' tasks?"</p> <p>11 Is that a -- well, what kind of task is</p> <p>12 that?</p> <p>13 A. So the Federal Post Card Application is what</p> <p>14 the FPCA stands for, and it is a form that is used by</p> <p>15 military voters and overseas voters to do two things.</p> <p>16 The FPCA is both a request for a ballot by mail and a</p> <p>17 voter registration document.</p> <p>18 And so whenever -- the early voting clerk</p> <p>19 is the one who receives the FPCAs. The early voting</p> <p>20 clerk will input that FPCA into their system to request</p> <p>21 a -- to generate a ballot to send to the voter, and then</p> <p>22 they will send this SC 91 to the voter registrar so that</p> <p>23 the voter registrar will register the voter or update</p> <p>24 their voter registration if they're already registered.</p> <p>25 So there's two pieces of this puzzle that</p>
<p style="text-align: right;">Page 175</p> <p>1 have a 31.005 situation on our hands. We had something</p> <p>2 close to that in Harrison County in 2014, and I was</p> <p>3 close to pulling the trigger on a 31.005 at that point.</p> <p>4 But that is the only county election official that I've</p> <p>5 ever encountered who exhibited an attitude similar to</p> <p>6 that.</p> <p>7 They almost universally are in this</p> <p>8 business because they care about the election process,</p> <p>9 they care about the voters, and they want the process to</p> <p>10 run properly and well. They're remarkable, and they</p> <p>11 work hard.</p> <p>12 Q. Would you flip to the next page, which is</p> <p>13 Page 11 of that PowerPoint? At the top, it says, "What</p> <p>14 about the unresolved precinct/jurisdiction tasks?"</p> <p>15 What task is that referring -- or tasks?</p> <p>16 A. So in the old TEAM, you would have some voters</p> <p>17 who were untethered, and so you would have to make</p> <p>18 them -- you would have to put them into a precinct</p> <p>19 physically. Our current redeveloped system doesn't work</p> <p>20 like this.</p> <p>21 Q. How does it work for the precincts now?</p> <p>22 A. So now then the redistricting module you</p> <p>23 can't -- you can't create a precinct without having the</p> <p>24 voters associated with it. In the old TEAM, you would</p> <p>25 have to create the precinct. Then you would have to</p>	<p style="text-align: right;">Page 177</p> <p>1 have to come together, and the early voting clerk is the</p> <p>2 one who receives this one. Normally voter registrations</p> <p>3 go directly to the voter registrar, but this voter</p> <p>4 registration goes to the early voting clerk, which can</p> <p>5 be different in about 130 counties, 140 counties.</p> <p>6 Q. And is this still the -- needs to be processed</p> <p>7 in the same way in new TEAM as in old TEAM?</p> <p>8 A. It is still the case that the early voting</p> <p>9 clerk gets -- the FPCA does what they do with it and</p> <p>10 sends the SC 91 to the voter registrar, yes.</p> <p>11 Q. And the voter registrar works it in the same</p> <p>12 way that they would work any other voter registration --</p> <p>13 A. Yes.</p> <p>14 Q. -- application?</p> <p>15 A. I -- it is my understanding that the</p> <p>16 difference now is what the early voting clerk does is a</p> <p>17 temporary voter registration sufficient to keep that --</p> <p>18 you know, to keep that ballot request active. And so</p> <p>19 it's not as essential that the voter registrar work the</p> <p>20 91 as fast. They need to before the next election that</p> <p>21 the FPCA would be good for, but they don't have to</p> <p>22 necessarily for this election. So I don't know for sure</p> <p>23 if it's exactly the same now as it -- as it was then.</p> <p>24 Q. And the temporary voter registration that</p> <p>25 you've talked about that the early voting clerk creates,</p>



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<p style="text-align: right;">Page 182</p> <p>1 voter registration field: 'Voter registration was never 2 included in the file due to conversations during DLR 3 requirements. Since they are not actually registering 4 to vote when they select yes, the DLS application was 5 not to receive this field. When they select yes to 6 voter reg online, they are merely presented with a link 7 and has no indication of whether or not they actually 8 registered to vote.'</p> <p>9 Did I read all that correctly?</p> <p>10 A. You did.</p> <p>11 Q. The DLR requirements that it's talking about, 12 that's referencing the conversations you were able to 13 confirm with your predecessor and Betsy Schonhoff's 14 predecessor. Is that right?</p> <p>15 A. I -- I don't think so, no.</p> <p>16 Q. What do you think it is?</p> <p>17 A. I think that's what the driver's license 18 division required from Texas.gov. Now, I assume the 19 business requirements for this were discussed with our 20 office, and based upon my conversations with Karen and 21 Ann, I believe those conversations occurred, but I do 22 not understand what this means when it says it was 23 "never included in the file due to conversations during 24 DLR requirements."</p> <p>25 What I think it means is that the actual</p>	<p style="text-align: right;">Page 184</p> <p>1 A. The --</p> <p>2 Q. -- the signature issue might --</p> <p>3 A. Since there's --</p> <p>4 Q. -- take some working out?</p> <p>5 A. -- not a signature captured contemporaneously 6 with the transaction, retrieving the proper signature 7 from the proper file is a technical thing that Texas.gov 8 or DPS or somebody would have to overcome.</p> <p>9 Q. But that signature file is housed within DLS. 10 Right?</p> <p>11 A. Presumably.</p> <p>12 Q. Well, for the -- going back to the mail-in 13 change of address with DPS, that information goes on to 14 the Secretary of State. If someone chooses to register 15 to vote, that signature is retrieved from DLS and sent 16 on to the Secretary of State. Right?</p> <p>17 A. It's retrieved from wherever they keep it, 18 yes.</p> <p>19 Q. Okay. And, presumably, that same signature 20 could be sent on if the person answered yes to the voter 21 registration question online?</p> <p>22 A. If it was legal to do so. I've already told 23 you I think that's technically possible. You bet.</p> <p>24 Q. Okay. And --</p> <p>25 A. And I don't think it would cost a lot of</p>
<p style="text-align: right;">Page 183</p> <p>1 process of taking this information and shipping it 2 through DLS to Secretary of State was never included.</p> <p>3 Q. And --</p> <p>4 A. And that would be consistent with my 5 conversations with Ann and Karen.</p> <p>6 Q. And that -- that's true as far as the 7 Secretary of State is concerned. That information has 8 never been sent from Texas.gov DPS application to DLS 9 and then on to Secretary of State?</p> <p>10 A. That's right.</p> <p>11 Q. Okay. I think you referenced this earlier -- 12 or stated this earlier, but the technical requirements 13 for transferring the answer to the voter registration 14 question on a DPS online transaction to DLS on to the 15 Secretary of State's Office, it's technic- -- 16 technically feasible?</p> <p>17 A. Yeah. It's my understanding that there would 18 be some cost associated with it, and there would be 19 an -- an issue with making sure you retrieved the proper 20 signature to send with the file, that technically that 21 would be a challenge that would have to be overcome 22 and -- so I don't know. I mean, it's feasible. It 23 would just cost money.</p> <p>24 Q. What's the -- you identified the cost 25 implications but also it might be difficult or --</p>	<p style="text-align: right;">Page 185</p> <p>1 money. It would cost something to make that change.</p> <p>2 Q. Okay.</p> <p>3 A. And I've been told that the technical 4 procedure -- the technical hurdle to overcome is making 5 sure you pull the right signature.</p> <p>6 Q. And who told you that?</p> <p>7 A. DPS.</p> <p>8 Q. Who at DPS?</p> <p>9 A. It was in a conversation about online voter 10 registration with many stakeholders in the room.</p> <p>11 Q. And when you say it would be an issue to 12 determine which signature to pull, how many signatures 13 are attached to an individual record?</p> <p>14 A. Well, that's the issue. Which individual 15 record are you pulling from, and then which signature? 16 So if somebody has been a driver in Texas, they could 17 have a lot of signatures on file with the DPS. I don't 18 know how many they keep, and I don't know what form they 19 keep them.</p> <p>20 But I don't -- I don't know. This is not 21 our process that I'm talking about. This is DPS's 22 process. DPS has expressed that the technical hurdle to 23 doing something like this in a similar situation is 24 retrieving the correct signature. I don't know why 25 that's difficult. I don't know anything about the</p>

STRINGER: BRIAN KEITH INGRAM

<p style="text-align: right;">Page 186</p> <p>1 details of the difficulty. That is not my issue. It is  2 not the Secretary of State's issue. I just know what  3 they've expressed in an open meeting about online voter  4 registration.</p> <p>5 Q. But the Secretary of State does know that DPS  6 is able to pull the proper signature to send on for  7 voter registration purposes to the Secretary of State  8 for mail-in change of address forms?</p> <p>9 A. I'm not arguing with you that this is not  10 possible. That is not my argument at all. My argument  11 is exactly to the contrary. This is a very possible  12 thing to do what you're saying if it was legal, and it's  13 not legal.</p> <p>14 Q. Okay. And --</p> <p>15 A. So I'm not contesting the logistics of it. We  16 can agree that it's a possible thing to do.</p> <p>17 Q. Okay. And I'm -- I'm trying to understand,  18 from the Secretary of State's perspective, how possible.  19 Is it --</p> <p>20 A. That I don't know. That's a DPS question.</p> <p>21 Q. Okay. The -- so you've told me about the  22 signature potential issue with DPS. Tell me about the  23 costs that you are referencing.</p> <p>24 A. That's a DPS question.</p> <p>25 Q. So the costs are only on the DPS side of this?</p>	<p style="text-align: right;">Page 188</p> <p>1 not be as comprehensive as any voter. It would be just  2 the voters who -- or the customers who are doing a  3 transaction with DPS already, but still it's the same  4 process.</p> <p>5 Q. So the \$182,000 that you've identified,  6 what -- what does that cost entail?</p> <p>7 A. Hours of developer work that it would require  8 to make TEAM able to do this interface.</p> <p>9 Q. TEAM already does this interface for DPS  10 applications. Correct?</p> <p>11 A. No. It does a similar one, and it might not  12 be much of a hurdle to do a different one, but it  13 doesn't do this one yet.</p> <p>14 Q. What information would come -- in our  15 scenario -- I'm not talking about online voter  16 registration.</p> <p>17 A. Really, I -- do we have to talk about this?  18 This -- I am not arguing the point about whether it's  19 possible. It is possible and I don't think very  20 difficult. So why do we need to keep talking about it?</p> <p>21 Q. I'm just trying to make sure that it's clear  22 for the Judge in our case --</p> <p>23 A. How -- how clear can I make it for the Judge?</p> <p>24 Q. Well, I'm trying -- you've -- you've said that  25 it -- when I asked you about cost, you referenced the</p>
<p style="text-align: right;">Page 187</p> <p>1 A. We have put a fiscal note on online voter  2 registration of about \$182,000 --</p> <p>3 Q. What does that --</p> <p>4 A. -- for Secretary of State.</p> <p>5 Q. What does that mean?</p> <p>6 A. For changes that we would have to make to TEAM  7 if there was an online voter registration option in  8 Texas.</p> <p>9 Q. And -- and let's make the distinction very  10 clear. You're talking about a process that is not the  11 DPS online application that we're talking about. That  12 is a -- a voter registration application that would run  13 through the Secretary of State's Office.</p> <p>14 A. The versions of --</p> <p>15 Q. Is that --</p> <p>16 A. -- online voter registration that have been  17 proposed in the legislature would be a very similar  18 process to what you're describing from Texas Online,  19 where you would be able to go online, request to  20 register to vote, and DPS would supply the signature  21 from their file. And those are the only people who  22 would be eligible to register online, are people who  23 have a signature on file with the DPS. It is a very  24 similar process.</p> <p>25 This -- this what you're discussing might</p>	<p style="text-align: right;">Page 189</p> <p>1 \$182,000. I'm just trying to get at what that money  2 covers.</p> <p>3 A. The fiscal note on the online voter  4 registration bills is available on the Texas legislature  5 online website. You can go read it at your leisure.</p> <p>6 Q. Well, unfortunately, I'm not at my leisure,  7 and I'm here for a deposition. And so could you please  8 answer my question?</p> <p>9 A. I have answered your question. It is for  10 hours of development work to make TEAM be configured to  11 accept this new interface.</p> <p>12 Q. So that's all \$182,000 represents?</p> <p>13 A. That's right. Developer hours.</p> <p>14 Q. The Secretary of State's Office is not a part  15 of the legislature. Correct?</p> <p>16 A. That is correct.</p> <p>17 Q. And thus you are not a legislator. Is that  18 correct?</p> <p>19 A. I am not.</p> <p>20 Q. And you're also not a legislative aide. Is  21 that correct?</p> <p>22 A. I am not.</p> <p>23 Q. Okay. And -- and no one in the Department of  24 Elections within the Secretary of State's Office is --  25 is a legislator. Correct?</p>

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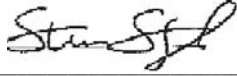
Page 214					Page 216				
CHANGES AND SIGNATURE					IN THE UNITED STATES DISTRICT COURT				
PAGE	LINE	CHANGE	REASON		WESTERN DISTRICT OF TEXAS				
					SAN ANTONIO DIVISION				
					JARROD STRINGER, et al.,				
					Plaintiffs,				
					v.			Civil Action	
								No. 5:16-cv-00257-OLG	
					ROLANDO B. PABLOS, IN HIS				
					OFFICIAL CAPACITY AS THE				
					SECRETARY OF STATE and STEVEN				
					C. McCRAW, IN HIS OFFICIAL				
					CAPACITY AS THE DIRECTOR OF				
					THE TEXAS DEPARTMENT OF PUBLIC				
					SAFETY,				
					Defendants.				
					REPORTER'S CERTIFICATION				
					DEPOSITION OF BRIAN KEITH INGRAM				
					March 22, 2017				
					I, Steven Stogel, Certified Shorthand Reporter in				
					and for the State of Texas, hereby certify to the				
					following:				
					That the witness, BRIAN KEITH INGRAM, was duly				
					sworn by the officer and that the transcript of the oral				
					deposition is a true record of the testimony given by				
					the witness;				
					That the original deposition was delivered to MS.				
					BETH STEVENS.				
					That a copy of this certificate was served on all				
					parties and/or the witness shown herein on				
					_____, 2017.				
Page 215					Page 217				
					I further certify pursuant to FRCP Rule 30(f)(1)				
					that the signature of the deponent:				
					_X_ was requested by the deponent or a party				
					before the completion of the deposition and that the				
					signature is to be before any notary public and returned				
					within 30 days (or ____ days per agreement of counsel)				
					from date of receipt of the transcript. If returned,				
					the attached Changes and Signature Page contains any				
					changes and the reasons therefore:				
					____ was not requested by the deponent or a				
					party before the completion of the deposition.				
					That the amount of time used by each party at the				
					deposition is as follows:				
					MS. BETH STEVENS.....4:48				
					MS. ANNE MARIE MACKIN.....0:02				
					That pursuant to information given to the				
					deposition officer at the time said testimony was taken,				
					the following includes counsel for all parties of				
					record:				
					FOR THE PLAINTIFFS: MS. BETH STEVENS				
					FOR THE DEFENDANTS: MS. ANNE MARIE MACKIN				
					That \$_____ is the deposition officer's charges				
					to the Plaintiffs for preparing the original deposition				
					transcript and any copies of exhibits;				
					I further certify that I am neither counsel for,				

STRINGER: BRIAN KEITH INGRAM

Page 218

1 related to, nor employed by any of the parties or  
2 attorneys to the action in which this testimony was  
3 taken, and further that I am not financially or  
4 otherwise interested in the outcome of this action.

5 Certified to by me this the 5th day of  
6 April, 2017.

7   
8  
9

Steven Stogel

CSR 6174

Expiration Date: December 31, 2018

HG Litigation Services

Firm No. 69

2777 N. Stemmons Freeway, Suite 1025

Dallas, Texas 75207

1-888-656-DEPO



# EXHIBIT 7

**APPLICATION FOR TEXAS DRIVER LICENSE OR IDENTIFICATION CARD****NOTICE:** All information on this application must be in INK. Applications held only 90 days.**DPS CANNOT REFUND PAYMENT ONCE APPLICATION IS SUBMITTED.****FOR DEPARTMENT USE ONLY  
RESTRICTIONS/ENDORSEMENTS****ASSIGNED #** \_\_\_\_\_

**APPLICATION for:** ☐ **DRIVER LICENSE** ☐ **COMMERCIAL DRIVER LICENSE (CDL)** ☐ **LEARNER LICENSE**  
☐ **IDENTIFICATION CARD** ☐ **NON-RESIDENT COMMERCIAL DRIVER LICENSE** **Class (Circle) A B C M**

<b>APPLICANT INFORMATION</b> LAST NAME: _____ FIRST NAME: _____ MIDDLE NAME: _____ SUFFIX: _____ MAIDEN NAME: _____ DATE OF BIRTH (mm/dd/yyyy): _____ SSN: _____ SEX: (Circle One) <b>MALE</b> <b>FEMALE</b> EYE COLOR: _____    HAIR COLOR: _____ RACE/ETHNICITY: _____ (I) American Indian/Alaska Native (A) Asian/Pacific Islander (B) Black (H) Hispanic (O) Other (W) White HEIGHT: ft. _____ in. _____    WEIGHT: lbs. _____ PLACE OF BIRTH: CITY: _____ COUNTY: _____ STATE: _____ COUNTRY: _____ FATHER'S LAST NAME: _____ MOTHER'S MAIDEN NAME: _____	<b>CONTACT INFORMATION</b> HOME PHONE: _____ OTHER PHONE: _____ EMAIL: _____ <b>ADDRESS INFORMATION</b> RESIDENCE ADDRESS: _____ _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTY: _____ MAILING ADDRESS: _____ _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTY: _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTY: _____ CITY: _____ STATE: _____ ZIP CODE: _____ COUNTY: _____
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**REQUIRED INFORMATION FROM ALL APPLICANTS**

- YES NO**
1. ☐ ☐ Are you a citizen of the United States?
  2. ☐ ☐ If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information?  
 By providing my electronic signature, I understand the personal information on my application form and my electronic signature will be used for submitting my voter's registration application to the Texas Secretary of State's office. Wanting to register to vote, I authorize the Department of Public Safety to transfer this information to the Texas Secretary of State.
  3. ☐ ☐ Do you wish to donate \$1.00 to the Blindness Education Screening and Treatment Program?
  4. ☐ ☐ Do you want to support the Glenda Dawson Donate Life Texas donor registry? If yes, please indicate a donation amount of \$1 or more \$\_\_\_\_\_.00
  5. ☐ ☐ Would you like to register as an organ donor?
  6. ☐ ☐ Do you want to support Texas Veterans? If yes, please indicate your donation amount \$\_\_\_\_\_.00
  7. ☐ ☐ Do you have a health condition that may impede communication with a peace officer? If yes, please list \_\_\_\_\_  
 \_\_\_\_\_ (physician must complete form DL-101 prior to the issuance of a DL/ID).
  8. ☐ ☐ a) Do you want a Veteran designator on your driver license or identification card? (proof of Honorable discharge required; acceptable documents are DD214/5, NGB22, VA disability letter, proof of service/verification of honorable service card)  
☐ ☐ b) Are you a 60% disabled Veteran receiving compensation and want to waive the application fee? (see 8a for documents required)
  9. ☐ ☐ In the event of injury or death would you like to provide two (2) emergency contacts? If yes, please list:  
 a) Name \_\_\_\_\_ Telephone Number \_\_\_\_\_ Address \_\_\_\_\_  
 b) Name \_\_\_\_\_ Telephone Number \_\_\_\_\_ Address \_\_\_\_\_
  10. ☐ ☐ Have you ever had a Texas identification card? Number \_\_\_\_\_ When? \_\_\_\_\_
  11. ☐ ☐ Have you ever had a driver license or instruction permit in Texas? Number \_\_\_\_\_ When? \_\_\_\_\_
  12. ☐ ☐ Have you ever had a license or instruction permit in any other state? List state(s) \_\_\_\_\_  
 Number(s) \_\_\_\_\_ When? \_\_\_\_\_

**REQUIRED INFORMATION FROM DRIVER LICENSE APPLICANTS**

- YES NO**
13. ☐ ☐ Are you enrolled in or have you completed an approved driver education course?
  14. ☐ ☐ Is your driver license or driver privilege **CURRENTLY** or **EVER** been suspended, revoked, canceled, denied or disqualified in **ANY** state?  
 Where? \_\_\_\_\_ When? \_\_\_\_\_ Why? \_\_\_\_\_
- VEHICLE REGISTRATION AND INSURANCE INFORMATION**
15. ☐ ☐ Do you own a motor vehicle which is required to be registered (Texas Transportation Code Section 502.040)?
  16. ☐ ☐ Do you own a motor vehicle which is required to have liability insurance OR other proof of financial responsibility in compliance with the Motor Vehicle Safety Responsibility Act (Texas Transportation Code Section 601.051)?

**UNITED STATES SELECTIVE SERVICE**

Any male United States citizen or immigrant who is at least 18 years of age but less than 26 years of age submitting this application consents to registration with the United States Selective Service System. You must be registered to qualify for federal student aid (to include Pell grant), job training, federal employment, and citizenship if an immigrant. In Texas, you must be registered to qualify for state college student aid or state employment. If convicted, failure to register with the Selective Service is a felony punishable by up to five years in prison and/or a \$250,000 fine. If not registered by age 26, you can no longer register and could permanently lose those benefits associated with registration. For alternative options for applicants who object to conventional military service for religious or other conscientious reasons information is available at: <http://www.sss.gov/FactSheets/FSaltsvc.pdf>.

**DRIVER LICENSE APPLICANTS: Answers to 1 through 7 below are for the confidential use of the Department.**

- YES NO MEDICAL HISTORY QUESTIONS**
1. ☐ ☐ Do you currently have or have you ever been diagnosed with or treated for any medical condition that may affect your ability to safely operate a motor vehicle?
- EXAMPLES, including but not limited to:** Diagnosis or treatment for heart trouble, stroke, hemorrhage or clots, high blood pressure, emphysema (within past two years) • progressive eye disorder or injury (i.e., glaucoma, macular degeneration, etc.) • loss of normal use of hand, arm, foot or leg • blackouts, seizures, loss of consciousness or body control (within the past two years) • difficulty turning head from side to side • loss of muscular control • stiff joints or neck • inadequate hand/eye coordination • medical condition that affects your judgment • dizziness or balance problems • missing limbs
- Please explain and identify medical condition: \_\_\_\_\_
2. ☐ ☐ Do you have a mental condition that may affect your ability to safely operate a motor vehicle? If yes, please explain: \_\_\_\_\_
3. ☐ ☐ Have you ever had an epileptic seizure, convulsion, loss of consciousness, or other seizure?
4. ☐ ☐ Do you have diabetes requiring treatment by insulin?
5. ☐ ☐ Do you have any alcohol or drug dependencies that may affect your ability to safely operate a motor vehicle or have you had any episodes of alcohol or drug abuse within the past two years?
6. ☐ ☐ Within the past two years have you been treated for any other serious medical conditions? Please explain: \_\_\_\_\_
7. ☐ ☐ Have you **EVER** been referred to the Texas Medical Advisory Board for Driver Licensing?

**NOTICE:** The information on this application is required by the Texas Driver License Act, Texas Transportation Code Chapter 521. Failure to provide the information is cause for refusal to issue a driver license or identification card, and in some cases, cancellation or withdrawal of driving privileges. False information could also lead to criminal charges with penalties of a fine up to \$4,000.00 and/or jail.

**DO NOT SIGN BELOW UNTIL INSTRUCTED TO DO SO BY NOTARY PUBLIC OR DRIVER LICENSE EMPLOYEE.**

**CERTIFICATION**

I do solemnly swear, affirm, or certify that I am the person named herein and that the statements on this application are true and correct. I further certify my residence address is a (check one): ( ) single family dwelling, ( ) apartment, ( ) motel, ( ) temporary shelter. I agree to immediately report to the Texas Department of Public Safety any changes in my medical condition which may affect my ability to safely operate a motor vehicle. I further understand that I am required by law to report any change of name or address to the Department of Public Safety within thirty days.

**X**

Signature of Applicant

Date

Texas law requires the Texas Department of Public Safety must provide every minor applicant (under age 18), and cosigner, for a driver license in Texas, educational information concerning state laws relating to driving while intoxicated, driving by a minor with alcohol in the minor's system, and the implied consent law. The minor applicant and the cosigner must acknowledge receipt of that information prior to issuance of any driver license or permit.

I hereby acknowledge receipt of the information concerning DWI, the Zero Tolerance Law and the Implied Consent Law.

Minor Applicant

Parent/Legal Guardian

Date of Receipt

**PARENTAL AUTHORIZATION**

Required for all driver license applicants under the age of 18

I do solemnly swear, affirm, or certify that I am the person named herein, that the statements on this application are true and correct, that the above named applicant is my ( ) child ( ) stepchild ( ) ward, and that I have legal custody of the applicant. I authorize the Department of Public Safety to issue a Class ( ) A, ( ) B, ( ) C, or ( ) M license to said minor. The Department can access the said minor's school enrollment records from the Texas Education Agency, and a school administrator or law enforcement officer is authorized to notify the Department if the said minor is absent from school for at least 20 consecutive instructional days.

Usual Written Signature of Parent or Guardian

Driver License Number

Date

**WAIVER OF PARENTAL AUTHORIZATION**

Parental Authorization waived.

Signature of Applicant

DL Employee

ACID

**VERIFICATION**

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary Public in and for the State of Texas/Authorized Officer

**SOCIAL SECURITY NUMBER COLLECTION DISCLOSURE**

Disclosure of your social security account number is mandatory for identification card and driver license applicants. This information is solicited pursuant to 42 U.S.C. 405(c)(2)(C)(i), 42 U.S.C. 666(a)(13)(A); 49 C.F.R. 383.153, Texas Family Code Section 231.302(c)(1) and Texas Transportation Code Sections 522.021 and 521.142. The Department will use social security number information for identification purposes and will only release the number to the Child Support Enforcement Division of the Attorney General's Office, the U.S. Selective Service Administration, the Texas Secretary of State and the Health and Human Services Commission for statutorily authorized purposes pursuant to Texas Transportation Code Section 521.044.

# EXHIBIT 8



APPLICATION FOR RENEWAL/REPLACEMENT/CHANGE  
OF A TEXAS DRIVER LICENSE OR IDENTIFICATION CARD

(Replacement also called Duplicate)

DL or ID NUMBER \_\_\_\_\_

## APPLICANT INFORMATION

LAST NAME: \_\_\_\_\_  
 FIRST NAME: \_\_\_\_\_  
 MIDDLE NAME: \_\_\_\_\_  
 SUFFIX: \_\_\_\_\_  
 MAIDEN NAME: \_\_\_\_\_  
 DATE OF BIRTH (mm/dd/yyyy): \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
 SSN: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
 SEX: (Mark One) ☐ MALE ☐ FEMALE WEIGHT: lbs. \_\_\_\_\_  
 EYE COLOR: \_\_\_\_\_ HEIGHT: ft. \_\_\_\_\_ in. \_\_\_\_\_  
 RACE/ETHNICITY: \_\_\_\_\_ (I) American Indian/Alaska Native  
 (A) Asian/Pacific Islander (B) Black (H) Hispanic (O) Other (W) White

## CONTACT INFORMATION

HOME PHONE: \_\_\_\_\_  
 OTHER PHONE: \_\_\_\_\_  
 EMAIL: \_\_\_\_\_

## ADDRESS INFORMATION

RESIDENCE ADDRESS: \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE: \_\_\_\_\_  
 ZIP CODE: \_\_\_\_\_ COUNTY: \_\_\_\_\_  
 MAILING ADDRESS: \_\_\_\_\_  
 CITY: \_\_\_\_\_ STATE: \_\_\_\_\_  
 ZIP CODE: \_\_\_\_\_ COUNTY: \_\_\_\_\_

EXHIBIT

tabbies

3-0

## INFORMATION FORM (ALL APPLICANTS please answer questions 1 through 9)

YES NO

1. ☐ ☐ Are you a citizen of the United States?
2. ☐ ☐ If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information?  
 By providing my electronic signature, I understand the personal information on my application form and my electronic signature will be used for submitting my voter's registration application to the Texas Secretary of State's office. Wanting to register to vote, I authorize the Department of Public Safety to transfer this information to the Texas Secretary of State.
3. ☐ ☐ Do you wish to donate \$1.00 to the Blindness Education Screening and Treatment Program?
4. ☐ ☐ Do you want to support the Glenda Dawson Donate Life Texas donor registry? If yes, please indicate a donation amount of \$1 or more \$\_\_\_\_.00
5. ☐ ☐ Would you like to register as an organ donor?
6. ☐ ☐ Do you want to support Texas Veterans? If yes, please indicate your donation amount \$\_\_\_\_.00
7. ☐ ☐ Do you have a health condition that may impede communication with a peace officer? If yes, please list \_\_\_\_\_  
 \_\_\_\_\_ (physician must complete form DL-101 prior to the issuance of a DL/ID).
8. ☐ ☐ a) Do you want a Veteran designator on your driver license or identification card? (proof of Honorable discharge required; acceptable documents are DD214/5, NGB22, VA disability letter, proof of service/verification of honorable service card)  
☐ ☐ b) Are you a 60% disabled Veteran receiving compensation and want to waive the application fee? (see 8a for documents required)
9. ☐ ☐ In the event of injury or death would you like to provide two (2) emergency contacts? If yes, please list:  
 a) Name \_\_\_\_\_ Telephone Number \_\_\_\_\_ Address \_\_\_\_\_  
 b) Name \_\_\_\_\_ Telephone Number \_\_\_\_\_ Address \_\_\_\_\_

For all Driver License Renewals complete MEDICAL questions 10 to 16. Answers to the questions below are for the confidential use of the Department.

10. ☐ ☐ Do you currently have or have you ever been diagnosed with or treated for any medical condition that may affect your ability to safely operate a motor vehicle?

**Examples, including but not limited to:** Diagnosis or treatment for heart trouble, stroke, hemorrhage or clots, high blood pressure, emphysema (within past two years) • progressive eye disorder or injury (i.e., glaucoma, macular degeneration, etc.) • loss of normal use of hand, arm, foot or leg • blackouts, seizures, loss of consciousness or body control (within the past two years) • difficulty turning head from side to side • loss of muscular control • stiff joints or neck • inadequate hand/eye coordination • medical condition that affects your judgment • dizziness or balance problems • missing limbs

If you answered **YES** above, has your condition ☐ IMPROVED or ☐ DETERIORATED since your last application for an original/renewal remake of your driver license?

11. ☐ ☐ Do you have a mental condition that may affect your ability to safely operate a motor vehicle? If yes, please explain: \_\_\_\_\_
12. ☐ ☐ Have you ever had an epileptic seizure, convulsion, loss of consciousness, or other seizure?
13. ☐ ☐ Do you have diabetes requiring treatment by insulin?
14. ☐ ☐ Do you have any alcohol or drug dependencies that may affect your ability to safely operate a motor vehicle or have you had any episodes of alcohol or drug abuse within the past two years?
15. ☐ ☐ Within the past two years, have you been treated for any other serious medical conditions?  
 Explain: \_\_\_\_\_
16. ☐ ☐ Have you **EVER** been referred to the Texas Medical Advisory Board for Driver Licensing?

Any male United States citizen or immigrant who is at least 18 years of age but less than 26 years of age **submitting this application consents to registration with the United States Selective Service System.** You must be registered to qualify for federal student aid (to include Pell grant), job training, federal employment, and citizenship if an immigrant. In Texas, you must be registered to qualify for state college student aid or state employment. If convicted, failure to register with the Selective Service is a felony punishable by up to five years in prison and/or a \$250,000 fine. If not registered by age 26, you can no longer register and could permanently lose those benefits associated with registration. For alternative options for applicants who object to conventional military service for religious or other conscientious reasons information is available at: <http://www.sss.gov/FactSheets/FSaltsvc.pdf>.

I do solemnly swear, affirm, or certify that I am the person named herein and that the statements on this information form are true and correct. I further certify my residence address is a (check one): ( ) single family dwelling, ( ) apartment, ( ) motel, ( ) temporary shelter. I agree to immediately report to the Texas Department of Public Safety any changes in my medical condition which may affect my ability to safely operate a motor vehicle.

# SOLICITUD PARA RENOVAR, REEMPLAZAR, Ó HACER CAMBIOS EN LA LICENCIA DE CONDUCIR O TARJETA DE IDENTIFICACIÓN DEL ESTADO DE TEXAS

(El reemplazo también es llamado duplicado)

NUMERO DE LICENCIA O DE TARJETA DE IDENTIFICACIÓN:

## INFORMACIÓN DEL SOLICITANTE

APELLIDO: \_\_\_\_\_  
 PRIMER NOMBRE: \_\_\_\_\_  
 SEGUNDO NOMBRE: \_\_\_\_\_  
 SUFJO: \_\_\_\_\_  
 APELLIDO DE SOLTERA: \_\_\_\_\_  
 FECHA DE NACIMIENTO (mm/dd/aaaa): \_\_\_\_\_  
 NÚMERO DE SEGURO SOCIAL: \_\_\_\_\_ — \_\_\_\_\_ — \_\_\_\_\_  
 SEXO: (Marque uno) ☐ HOMBRE ☐ MUJER PESO: en libras. \_\_\_\_\_  
 COLOR DE LOS OJOS: \_\_\_\_\_ ESTATURA: pies \_\_\_\_\_ pulg. \_\_\_\_\_  
 RAZA/ETNIA: \_\_\_\_\_ (I) Amerindio/Nativo de Alaska (A) Asiático/nativo de las Islas del Pacífico (B) Negro (H) Hispano (O) Otro (W) Blanco

## INFORMACIÓN DE CONTACTO

NÚMERO DE TELÉFONO: \_\_\_\_\_  
 TELÉFONO SECUNDARIO: \_\_\_\_\_  
 CORREO ELECTRÓNICO: \_\_\_\_\_  
**SU DOMICILIO**  
 DOMICILIO DONDE RESIDE: \_\_\_\_\_  
 CIUDAD: \_\_\_\_\_ ESTADO: \_\_\_\_\_  
 CÓDIGO POSTAL: \_\_\_\_\_ CONDADO: \_\_\_\_\_  
 DOMICILIO POSTAL (Lugar donde recibe su correspondencia): \_\_\_\_\_  
 CIUDAD: \_\_\_\_\_ ESTADO: \_\_\_\_\_  
 CÓDIGO POSTAL: \_\_\_\_\_ CONDADO: \_\_\_\_\_

## INFORMACIÓN SOBRE EL SOLICITANTE (TODOS LOS SOLICITANTES favor de contestar las preguntas 1 a 9)

- |    | SI                       | NO                       |  |
|----|--------------------------|--------------------------|--|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Es usted ciudadano de los Estados Unidos?   |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | Si usted es ciudadano de los Estados Unidos, ¿le gustaría registrarse para votar? Si ya está registrado, ¿le gustaría actualizar su información de votante?<br>Al proporcionar mi firma electrónica, comprendo que la información personal en mi solicitud, junto con mi firma electrónica, se usará para enviar mi solicitud de registro electoral a la oficina de la Secretaría del Estado de Texas. Deseo registrarme para votar; por lo tanto, autorizo al Departamento de Seguridad Pública para transferir esta información a la Secretaría del Estado de Texas. |
| 3. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Desea usted donar \$1.00 al Programa de Educación, Evaluación y Tratamiento de la Ceguera?  |
| 4. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Desea apoyar el Programa de Registro de Texas-Glenda Dawson Donar Vida? En caso afirmativo, indicar una cantidad de la donación de \$1 o más \$____.00  |
| 5. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Desea registrarse como donador de órganos?  |
| 6. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Desea apoyar los Veteranos de Texas? Si la respuesta es sí, por favor, indique la cantidad de su donación \$____.00   |
| 7. | <input type="checkbox"/> | <input type="checkbox"/> | ¿Tiene usted alguna afección médica que le pueda impedir la comunicación con un oficial de la policía? En caso afirmativo, por favor indique _____ (el médico debe llenar el formulario DL-101 antes de emitir una licencia de conducir o tarjeta de identificación).  |
| 8. | <input type="checkbox"/> | <input type="checkbox"/> | a) Desea una insignia de Veterano en su licencia de conducir o su tarjeta de identificación? (Se requiere comprobante de baja honorable; los documentos aceptables son DD214/5, NGB22, carta de discapacidad del VA, prueba de servicio/verificación de la tarjeta de servicio honorable)  |
|    | <input type="checkbox"/> | <input type="checkbox"/> | b) ¿Es usted un Veterano que recibe 60% de compensación por discapacidad y desea quedar exento de los derechos de solicitud? (vea el punto 8a para conocer qué documentos se requieren).   |
| 9. | <input type="checkbox"/> | <input type="checkbox"/> | En caso de sufrir lesiones o la muerte, ¿le gustaría proporcionar dos (2) contactos para emergencias? En caso afirmativo, por favor indique:<br>a) Nombre _____ Número telefónico _____ Domicilio _____<br>b) Nombre _____ Número telefónico _____ Domicilio _____   |

## Para todas las Renovaciones de Licencia de Conducir, complete las preguntas MÉDICAS 10 a 16.

Las respuestas a las siguientes preguntas son para uso confidencial del Departamento.

10. ☐ ☐ ¿Tiene actualmente o alguna vez ha sido diagnosticado con o tratado por alguna enfermedad que pueda afectar su capacidad de operar un vehículo motorizado de manera segura?

**Ejemplos, incluyendo pero no limitado a:** Diagnóstico o tratamiento por problemas cardíacos, derrame cerebral, hemorragia o coágulos, presión arterial alta, enfisema (en los últimos dos años) • enfermedad progresiva o lesión de la vista (como glaucoma, degeneración macular, etc.) • pérdida del uso normal de la mano, brazo, pie o pierna • desvanecimientos, ataques, pérdida de la consciencia o control del cuerpo (en los últimos dos años) • dificultad para voltear la cabeza de un lado a otro • pérdida de control muscular • articulaciones o cuello rígidos • coordinación inadecuada de mano/ojo • afección médica que altere su juicio • mareos o problemas de equilibrio • pérdida de algún miembro

Si respondió **SÍ** a la pregunta anterior, ¿su afección ha ☐ MEJORADO o ☐ EMPEORADO desde su última solicitud de original/renovación de licencia de conducir?

11. ☐ ☐ ¿Tiene usted una condición mental que puede afectar su capacidad para operar con seguridad un vehículo motorizado? Si su respuesta es sí, por favor de explicar: \_\_\_\_\_
12. ☐ ☐ ¿Alguna vez ha tenido un ataque epiléptico, convulsión, pérdida de la consciencia u otro ataque?
13. ☐ ☐ ¿Tiene diabetes que requiera tratamiento con insulina?
14. ☐ ☐ ¿Tiene alguna dependencia del alcohol o de drogas que pudiera afectar su capacidad de operar un vehículo motorizado de manera segura o ha tenido algún episodio de abuso de drogas o alcohol en los últimos dos años?
15. ☐ ☐ En los últimos dos años, ¿ha recibido tratamiento por alguna otra afección médica grave?  
Explique: \_\_\_\_\_
16. ☐ ☐ ¿Alguna vez ha sido remitido al Comité Asesor Médico de Licencias de Conducir de Texas?

Cualquier hombre ciudadano o inmigrante de los Estados Unidos entre 18 y 26 años de edad **que presente esta solicitud otorga su consentimiento para ser registrado en el Sistema de Servicio Militar Selectivo de los Estados Unidos**. Usted debe estar registrado para tener derecho a recibir ayuda federal estudiantil (incluso la beca Pell Grant), capacitación laboral, empleo federal y la ciudadanía si es inmigrante. En Texas, usted debe estar registrado para tener derecho a recibir ayuda estudiantil universitaria o empleo con el Estado. No registrarse en el Servicio Militar Selectivo es un delito mayor. Si es declarado culpable de ello, podría ser castigado hasta con cinco años de prisión y/o una multa de 250,000 dólares. Si no se ha registrado antes de cumplir 26 años, ya no se podrá registrar y podría perder permanentemente los beneficios asociados con el registro. Para conocer otras opciones alternativas para solicitantes que se oponen al servicio militar convencional por motivos religiosos u otros motivos de conciencia, podrá encontrar información disponible en: <http://www.sss.gov/FactSheets/FSaltsvc.pdf>.

Juro solemnemente, afirmo o certifico que soy la persona que se indica en el presente documento y que las declaraciones en esta solicitud son verdaderas y correctas. Además certifico que mi domicilio de residencia es (marque una opción): ( ) casa residencial, ( ) apartamento, ( ) hotel, ( ) sitio de refugio temporal. Estoy de acuerdo en informar inmediatamente al Departamento de Seguridad Pública de Texas cualquier cambio en mi condición médica que pueda afectar mi capacidad para conducir de manera segura un vehículo motorizado.

# EXHIBIT 9



# APPLICATION FOR CHANGE OF ADDRESS ON VALID TEXAS DRIVER LICENSE (DL) & IDENTIFICATION CARD (ID) Not For Commercial Driver License



DL-64 (Rev. 2/17)

**DO NOT MAIL CASH.**  
Mail check or money order payable to:  
Texas Department of Public Safety

**MAIL COMPLETED FORM AND \$10 FEE TO:**  
Texas Department of Public Safety, PO Box 149008, Austin, Texas, 78714-9008

Driver License Number

Expiration Date

Social Security Number

I.D. Card Number

Date of Birth

Suffix (SR., JR., etc.)

Last Name

First Name

Middle / Maiden

**Residence - Street Address** (Address cannot be a post office box)

City

County

State

Zip Code

Do you want to support the  
Glenda Dawson Donate  
Life Texas donor registry?  
If yes, please indicate a  
donation amount of \$1 or  
more \$\_\_\_\_.00

Yes ☐ No ☐

Would you like to register  
as an organ donor?

Yes ☐ No ☐**Mailing - Street Address**


City

County

State

Zip Code

If you are a US citizen,  
would you like to register to  
vote? If registered, would  
you like to update your  
voter information?

Yes ☐ No ☐

Date \_\_\_\_\_ Signature \_\_\_\_\_





**No Waiting in Line! – Change your address online**  
**Visit our Web site at [www.texas.gov/driver](http://www.texas.gov/driver)**

I do solemnly swear, affirm, or certify that I am the person named herein and that the statements on this application are true and correct. I further certify my residence address is a: (check one) (    ) single family dwelling, (    ) apartment, (    ) motel, (    ) temporary shelter.

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

In the event of injury or death would you like to provide two (2) emergency contacts? If yes, please list:

a) Name \_\_\_\_\_ Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

b) Name \_\_\_\_\_ Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

If you currently hold a valid Texas non-commercial driver license or identification card and have not reported your change of address as required by TRC 521.054, you may do so by mail or on the Internet. To report a change of address by mail, complete the reverse side of this form and mail along with the required fee(s) to the Texas Department of Public Safety. To report a change of address online, go to [www.texas.gov/driver](http://www.texas.gov/driver). A driver license or identification card validating your reported address change will be mailed to you. This form may **ONLY** be used to change your address.

Should you desire a new photo or need to change information other than your  
 address, you must apply at the local driver license office.

**If you are not a US citizen you must apply at the local driver license office to change your address.**

**United States Selective Service**

Any male United States citizen or immigrant who is at least 18 years of age but less than 26 years of age submitting this application consents to registration with the United States Selective Service System. You must be registered to qualify for federal student aid (to include Pell grant), job training, federal employment, and citizenship if an immigrant. In Texas, you must be registered to qualify for state college student aid or state employment. If convicted, failure to register with the Selective Service is a felony punishable by up to five years in prison and/or a \$250,000 fine. If not registered by age 26, you can no longer register and could permanently lose those benefits associated with registration. For alternative options for applicants who object to conventional military service for religious or other conscientious reasons information is available at: <http://www.sss.gov/FactSheets/FSaltsvc.pdf>.

**Below is an example of how numbers and letters should be written on front of this form:**

1 2 3 4 5 6 7 8 9 0

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

# EXHIBIT 10

STRINGER: SHERI GIPSON

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, ET AL., \*

Plaintiffs, \*

VS. \*

\* CIVIL ACTION

ROLANDO PABLOS, IN HIS \*

\* NO.: 5:16-cv-00257-OLG

OFFICIAL CAPACITY AS THE \*

TEXAS SECRETARY OF STATE \*

and STEVEN C. MCCRAW, IN \*

HIS OFFICIAL CAPACITY AS \*

THE DIRECTOR OF THE TEXAS \*

DEPARTMENT OF PUBLIC \*

SAFETY, \*

Defendants. \*

**CERTIFIED  
TRANSCRIPT**

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF

SHERI GIPSON

DEPARTMENT OF PUBLIC SAFETY'S 30(b)(6)

MARCH 7TH, 2017

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF SHERI

GIPSON, produced as a witness at the instance of the

PLAINTIFFS, and duly sworn, was taken in the

above-styled and numbered cause on the 7th of March,

2017, from 9:36 a.m. to 6:15 p.m., before Tammy Staggs,

CSR in and for the State of Texas, reported by machine

shorthand, at the offices of Texas Attorney General's

Office, 300 West 15th Street, 11th Floor, Austin, Texas,

STRINGER: SHERI GIPSON

<p>Page 2</p> <p>1 pursuant to the Federal Rules of Civil Procedure and the</p> <p>2 provisions stated on the record or attached hereto.</p> <p>3 That the deposition shall be read and signed under</p> <p>4 penalties of perjury. That the deposition shall be read</p> <p>5 and signed before any notary public.</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE PLAINTIFF, JARROD STRINGER:</p> <p>3 Cassandra Champion, Esq.</p> <p>4 TEXAS CIVIL RIGHTS PROJECT</p> <p>5 1405 Montopolis Drive</p> <p>6 Austin, Texas 78741</p> <p>7 512.474.5073</p> <p>8 champion@texascivilrightsproject.org</p> <p>9</p> <p>10 FOR THE PLAINTIFF, JOHN FRITZ:</p> <p>11 Beth Stevens, Esq.</p> <p>12 TEXAS CIVIL RIGHTS PROJECT</p> <p>13 1405 Montopolis Drive</p> <p>14 Austin, Texas 78741</p> <p>15 512.474.5073</p> <p>16 stevens@texascivilrightsproject.org</p> <p>17</p> <p>18 FOR THE PLAINTIFF, BENJAMIN HERNANDEZ:</p> <p>19 Caitlyn Elizabeth Silhan, Esq.</p> <p>20 WATERS &amp; KRAUS, L.L.P.</p> <p>21 3141 Hood Street</p> <p>22 Suite 700</p> <p>23 Dallas, Texas 75219</p> <p>24 214.357.6244</p> <p>25 csilhan@waterskraus.com</p> <p>FOR THE DEFENDANTS:</p> <p>Anna M. Mackin, Esq.</p> <p>Esteban Soto, Esq.</p> <p>ATTORNEY GENERAL'S OFFICE</p> <p>300 West 15th Street</p> <p>Floor 11</p> <p>Austin, Texas 78711</p> <p>512.463.2120</p> <p>anna.mackin@oag.texas.gov</p> <p>esteban.soto@oag.texas.gov</p> <p>Kathleen T. Murphy, Esq.</p> <p>TEXAS DEPARTMENT OF PUBLIC SAFETY</p> <p>5805 North Lamar</p> <p>Austin, Texas 78752</p> <p>512.424.2890</p> <p>Kathleen.murphy@dps.texas.gov</p>
<p>Page 4</p> <p>1 A P P E A R A N C E S</p> <p>2 ALSO PRESENT:</p> <p>3 Justin Talbot - Videographer</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 INDEX</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



## STRINGER: SHERI GIPSON

Page 6			Page 7		
1	EXHIBITS		1	3G	Module 10A: Class C and M Renewal Age 18
2	NO. DESCRIPTION PAGE		2		and Above, Customer Operations Handbook.. 44
3	1	Plaintiffs' Fourth Amended Notice of	3	3H	Screenshots..... 45
4		Deposition of Defendant Stephen C.	4	3I	Module 6: Driver License Forms,
5		McCraw, in his official capacity as the	5		Introduction to Common Non-CDL Forms,
6		Director of Texas Department of Public	6		Customer Operations Handbook..... 45
7		Safety, pursuant to Federal Rule of Civil	7	3J	DL-64 Manual Address Change Processing... 46
8		Procedure 30(b)(6)..... 14	8	3K	Texas Secretary of State Voter Inquiry
9	2	Defendants' Deposition Topic Designations	9		Portal..... 48
10		and Objection to Corporate Representative	10	3L	Voter registration paper application
11		Topics Under Federal Rule of Civil	11		postcard..... 49
12		Procedure 31l(b)(6)..... 15	12	3M	Texas Driver License and ID Card Renewal
13	3A	List of projects scheduled to occur	13		Notice..... 53
14		through 2019..... 16	14	3N	Texas Commercial Driver License
15	3B	List of the changes that have been made	15		Application..... 56
16		to the driver license system since 2012.. 19	16	3O	Application for Renewal/Replacement of a
17	3C	Use Case Specification: Process	17		Texas Driver License or Identification
18		Authentication Request..... 34	18		Card..... 58
19	3D	Use Case Specification: Process DL	19	3P	Application for Texas Driver License or
20		Duplicates/Renewals Application File..... 40	20		Identification Card as Exhibit..... 59
21	3E	Use Case Specification: Create Daily	21	3Q	Application for Change of Address on
22		Update File For SOS..... 41	22		Valid Texas Driver License and
23	3F	Use Case Specification: Create Voter	23		Identification Card..... 59
24		Registration Extract File..... 43	24		
25			25		
Page 8			Page 9		
1	3R	Application for Change of Address on	1	10	E-mail string between Sara Sandeen and
2		Valid Texas Driver License and	2		Shea Burch, among others, dated October
3		Identification Card..... 59	3		2013. Subject: Other DL. Confidential.. 151
4	3S	Screenshots..... 60	4	11	E-mail strong between Rebekah Hibbs and
5	3T	Screenshots..... 61	5		Sheri Gipson, among others, dated 8/3/16.
6	3U	Texas Department of Public Safety	6		Subject: DL/ID Renewal - Voter
7		Driver's License/ID Card Renewal IVR	7		Registration INC 2397..... 154
8		Script, confidential..... 61	8	12	E-mail from Beva Kellison to Betsy
9	3V	Driver's License Renewal Receipt and	9		Schonhoff, dated 11/27/13. Subject: DPS
10		Temporary License..... 62	10		- Online Registration Attempt, with
11	3W	Document titled: Texas Department of	11		attachment, Confidential..... 156
12		Public Safety Temporary Identification	12	13	DPS Module 17C Customer, Operations
13		Card..... 62	13		Handbook..... 169
14	3X	Letter dated July 22nd, 2016..... 62	14	D1	Plaintiffs' Third Amended Notice of
15	3Y	2016 Original, Renewal, Duplicate and	15		Deposition of Defendant Steven C. McCraw
16		Modification Issuances for Driver License	16		in his Official Capacity as the Director
17		and IDs..... 63	17		of the Texas Department of Public Safety
18	4	Organizational chart..... 65	18		Pursuant to Fed. R. CIV. P 30(b)(6)..... 216
19	5	Application Requirements..... 82	19		
20	6	Letter dated September 9th, 2015..... 113	20		
21	7	E-mails between Brenda Hester and Kelly	21		
22		Walton, dated 11/5/12. Subject: Voting.. 129	22		
23	8	Voter inquiry checklist..... 134	23		
24	9	DR-64 forms processed in fiscal year 2014	24		
25		and 2015..... 148	25		

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 10</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p>THE VIDEOGRAPHER: Today is Tuesday March 7th, 2017. It is approximately 9:36 a.m. I am -- we are at the Texas Attorney's General Office at 300 West 15th Street, Austin, Texas 78701.</p> <p>My name is Justin Talbot, video specialist of Legal Eyes, Incorporated out of Aubrey, Texas. This case, Cause No. 5:16-CV-00257-OLG entitled Jarrod Stringer, et al. vs. Rolando B. Pablos, et al. And this is Volume 2 of the deposition of Sheri Gipson. Video -- this video deposition was requested by the Plaintiffs' counsel at Waters Kraus &amp; Paul.</p> <p>Will counsel and all present please identify yourselves for the record.</p> <p>MS. CHAMPION: Cassandra Champion with the Texas Civil Rights Project appearing on behalf of Plaintiff Jarrod Stringer.</p> <p>MS. SILHAN: Caitlyn Silhan on behalf of the Plaintiffs from Waters &amp; Kraus, appearing on behalf of Benjamin Hernandez.</p> <p>MS. STEVENS: Beth Stevens from the Texas Civil Rights Project appearing on behalf of John Fritz.</p> <p>MR. SOTO: Esteban Soto with the Attorney General's Office on behalf of Defendants.</p> <p>MS. MURPHY: Kathleen Murphy, Texas</p>	<p style="text-align: right;">Page 11</p> <p>Department of Public Safety's Office of General Counsel.</p> <p>MS. MACKIN: Anna Mackin, Texas Office of Attorney General, on behalf of the Defendants.</p> <p>I would also like to ask a question on the record. Are we in Volume 2 of Sheri Gipson's deposition or are we in the 30(b)(6) deposition of the Department of Public Safety?</p> <p>MS. CHAMPION: 30(b)(6) of the Department of Public Safety.</p> <p>MS. MACKIN: Okay. That's what I thought.</p> <p>THE VIDEOGRAPHER: I'm sorry.</p> <p>MS. MACKIN: That's okay.</p> <p>THE VIDEOGRAPHER: I had the wrong information.</p> <p>MS. MACKIN: That's okay. I just wanted to make it clear on the record.</p> <p>MS. CHAMPION: Thank you.</p> <p>SHERI GIPSON,</p> <p>Having been first duly sworn, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MS. CHAMPION:</p> <p>Q. Thank you.</p> <p>Would you please state and spell your full name for the record?</p>
<p style="text-align: right;">Page 12</p> <p>A. Sheri Gipson, S-H-E-R-I, G-I-P-S-O-N.</p> <p>Q. Thank you.</p> <p>I know you have been deposed before in this case in your individual capacity, but I would just like to review the rules of depositions with you, if that's okay.</p> <p>A. Okay.</p> <p>Q. Remember, one of the most important things is that only one of us talk at a time. I will try to let you completely finish answering a question before asking a new one. And if you'll let me completely finish the question, that really helps the court reporter. Is that okay?</p> <p>A. Yes.</p> <p>Q. And remember to give verbal answers, "yes" and "no" rather than "uh-huh" and "uh-uh."</p> <p>If you don't understand a question, please let me know; otherwise, if you don't tell me that you haven't understood something, I will assume that you have understood and that the answer you gave was the answer you intended to give. Does that all make sense?</p> <p>A. Yes.</p> <p>Q. Okay. Do you understand that you're under oath here today?</p> <p>A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>Q. And are you aware how this deposition is slightly different from the one you gave in your individual capacity?</p> <p>A. Yes.</p> <p>Q. So you are here today as a representative of the Department of Public Safety; is that correct?</p> <p>A. Correct.</p> <p>Q. And you've been authorized by the depublc of partment -- Department of Public Safety to appear on their behalf and give testimony for the Department today; is that right?</p> <p>A. Correct.</p> <p>Q. Do you understand that the Department of Public Safety, or DPS, is bound by the testimony that you give as a representative in this matter?</p> <p>A. Yes.</p> <p>Q. And do you understand that, unless I say otherwise, I'm not asking for your personal opinions; but instead, I'm asking for the answer that reflects the position of DPS and their subjective beliefs and opinions.</p> <p>A. Correct.</p> <p>Q. Is that clear?</p> <p>Have you ever testified as a DPS representative before?</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 74</p> <p>1 within those discussions?</p> <p>2 A. It is -- it's my understanding, based on</p> <p>3 discussions, that those were considered -- would be</p> <p>4 considered online transactions or online voter</p> <p>5 registration application, and Texas statute does not</p> <p>6 provide for that.</p> <p>7 Q. Mail transactions for driver license renewal</p> <p>8 were considered the same as online; is that correct?</p> <p>9 MS. MACKIN: Objection, form.</p> <p>10 A. Correct.</p> <p>11 Q. (BY MS. CHAMPION) Please restate if -- if</p> <p>12 I've described that inaccurately.</p> <p>13 A. Repeat.</p> <p>14 Q. Oh, I think I said the wrong thing. Thank</p> <p>15 you. Telephone.</p> <p>16 Why -- I'm just -- I'm trying to clarify</p> <p>17 that mail transactions are considered -- no. Telephone</p> <p>18 transactions are considered the same as online</p> <p>19 transactions.</p> <p>20 MS. MACKIN: Objection, form.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: I'm sorry. I didn't hear</p> <p>23 you.</p> <p>24 MS. MACKIN: I said objection, form.</p> <p>25 You can answer.</p>	<p style="text-align: right;">Page 75</p> <p>1 THE WITNESS: Okay.</p> <p>2 A. They use the same process. So Texas NIC, when</p> <p>3 they -- the IVR actually inputs the information into our</p> <p>4 online application file that comes from Texas NIC to</p> <p>5 DPS.</p> <p>6 Q. (BY MS. CHAMPION) Texas NIC takes the</p> <p>7 information from IVR. It collects it; is that right?</p> <p>8 A. That's correct.</p> <p>9 Q. Do they -- does Texas NIC send the information</p> <p>10 to DPS?</p> <p>11 A. Yes.</p> <p>12 Q. And how often do they send it?</p> <p>13 A. Nightly. It comes with all of the</p> <p>14 transaction -- the transaction information from the IVR</p> <p>15 comes in the same file as the transaction information</p> <p>16 from the Web.</p> <p>17 Q. Okay. Are they sent -- is the information</p> <p>18 from NIC for both telephone and online transactions sent</p> <p>19 all together?</p> <p>20 A. In a single file?</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. When DPS receives that information from Texas</p> <p>24 NIC, does it get put into the DLS?</p> <p>25 A. Yes. All transactions that come in from NIC</p>
<p style="text-align: right;">Page 76</p> <p>1 for DL or ID renewal or change of address are input into</p> <p>2 DLS.</p> <p>3 Q. Does that require any manual input by a DPS</p> <p>4 employee or is it automatic?</p> <p>5 A. It's automatic.</p> <p>6 Q. Can you tell then -- can DPS tell by looking</p> <p>7 at DLS whether a transaction was completed by phone or</p> <p>8 online?</p> <p>9 A. Yes.</p> <p>10 Q. How can they tell?</p> <p>11 A. Because the -- and I can't remember the title</p> <p>12 of the -- the field, but it's -- it's designated as</p> <p>13 TOL.web or TOL.IVR.</p> <p>14 Q. Okay. So what are -- how does DPS carry out</p> <p>15 its duties related to voter registration when a customer</p> <p>16 sends in a mail renewal form? We kind of covered this,</p> <p>17 but can you tell me generally again.</p> <p>18 A. So when a mail renewal application is sent</p> <p>19 out, it is sent with a voter registration application</p> <p>20 form prescribed by Secretary of State. And the</p> <p>21 individual, if they complete that card, it is mailed</p> <p>22 directly back to the Secretary of State. It does not</p> <p>23 come back to the Department.</p> <p>24 Q. How about mail-in change of address forms, how</p> <p>25 does DPS carry out its voter registration duties when a</p>	<p style="text-align: right;">Page 77</p> <p>1 customer sends in a change of address form via the mail?</p> <p>2 A. So as of March 16th, the form was revised to</p> <p>3 allow the customer to indicate that they want to do a</p> <p>4 change -- a voter registration application. And when</p> <p>5 that form is processed, that information is input into</p> <p>6 the driver license system. And the voter registration</p> <p>7 information is updated if they say yes.</p> <p>8 Q. I think I skipped an item, via telephone. We</p> <p>9 were speaking about renewals. Is the process any</p> <p>10 different when a change of address is requested via</p> <p>11 telephone?</p> <p>12 A. You cannot do a change of address application.</p> <p>13 And just to clarify, so when you do a renewal, you can</p> <p>14 change your address, but there's a separate transaction</p> <p>15 that you're not renewing. You're just changing your</p> <p>16 address, and that's not allowed on the IVR. It's not</p> <p>17 provided for.</p> <p>18 Q. Why not?</p> <p>19 A. It's just the volume of those is extremely</p> <p>20 low, and they have -- we've just never increased that</p> <p>21 opportunity. They can do it online, through the mail,</p> <p>22 or in the office.</p> <p>23 Q. How does DPS carry out its voter registration</p> <p>24 duties when a customer goes online to renew a driver</p> <p>25 license?</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 78</p> <p>1 A. So as they go through the process, the</p> <p>2 screens, they're given the opportunity to say -- state</p> <p>3 that they would like to register or submit a voter</p> <p>4 registration application. And then on the receipt page,</p> <p>5 they're provided a link to the Secretary of State where</p> <p>6 the packet is downloaded, completed, and mailed.</p> <p>7 Q. Is this process the same when a customer goes</p> <p>8 online to change their driver license address?</p> <p>9 A. Yes, it is.</p> <p>10 Q. What steps has DPS taken to ensure that</p> <p>11 customers are aware of voter registration opportunities</p> <p>12 through DPS?</p> <p>13 A. So -- I mean, the information is on the form.</p> <p>14 The question is on each form. As far as the online, it</p> <p>15 -- it provides the question and then also on the receipt</p> <p>16 page, calls attention to the fact that they need to</p> <p>17 download that application.</p> <p>18 Q. Other than having the questions about voter</p> <p>19 registration on the form or online, has DPS done</p> <p>20 anything else to increase customer awareness that they</p> <p>21 can register to vote while completing driver license</p> <p>22 transactions?</p> <p>23 MS. MACKIN: Objection, form.</p> <p>24 You can answer.</p> <p>25 A. As far as like designated information that's</p>	<p style="text-align: right;">Page 79</p> <p>1 displayed, things like that, no.</p> <p>2 Q. (BY MS. CHAMPION) When did DPS start</p> <p>3 performing voter registration functions?</p> <p>4 A. It would have been mid-'90s.</p> <p>5 Q. Can you be any more specific?</p> <p>6 A. I believe it was either 1994 or 1995.</p> <p>7 Q. Do you know why they started completing voter</p> <p>8 registration functions at that time?</p> <p>9 A. As a part of the Help America Vote Act or the</p> <p>10 Motor Voter.</p> <p>11 Q. When you say "Motor Voter," is that also</p> <p>12 referred to as the NVRA?</p> <p>13 A. Yes.</p> <p>14 Q. Have DPS's voter registration functions</p> <p>15 changed/evolved since 1995?</p> <p>16 MS. MACKIN: Objection, form.</p> <p>17 You can answer.</p> <p>18 A. So they have evolved. In 1995 the only thing</p> <p>19 that was available was in-office transaction. So all</p> <p>20 individuals went through there. When the mail-in</p> <p>21 process was established in, I believe, 1998 -- I might</p> <p>22 have to confirm that date -- when that was established,</p> <p>23 the Department worked with the Secretary of State to</p> <p>24 determine the process and -- that would be followed as</p> <p>25 far as providing the application -- the registration</p>
<p style="text-align: right;">Page 80</p> <p>1 application form.</p> <p>2 When the online processes were developed</p> <p>3 in 2000, 2001, again, the Department worked with the</p> <p>4 depart- -- Secretary of State to determine how those</p> <p>5 services would be offered. The most recent change was</p> <p>6 in 2009/'10 when we went from our previous distributed</p> <p>7 driver license system to the current driver license</p> <p>8 system. The change made there is those applications</p> <p>9 that were processed in person, instead of them filling</p> <p>10 out the hardcopy form that was delivered to the local</p> <p>11 registrar, the Department sent a file daily to the</p> <p>12 Secretary of State with all of those customer infor- --</p> <p>13 or with all the customer information indicating that</p> <p>14 they had requested a registration application in the</p> <p>15 office.</p> <p>16 Q. (BY MS. CHAMPION) And when was that last</p> <p>17 change?</p> <p>18 A. That change, the going to the electronic file,</p> <p>19 it began in 2009, but there was a conversion period from</p> <p>20 two thou- -- May of 2009 to May 2010. So during that</p> <p>21 time period there was still some offices who were</p> <p>22 providing the hardcopy to the local registrar.</p> <p>23 Q. Okay. We -- we talked about -- we -- I'm</p> <p>24 sorry. We mentioned Motor Voter and the NVRA, which</p> <p>25 stands for the National Voter Registration Act. What is</p>	<p style="text-align: right;">Page 81</p> <p>1 the National Voter Registration Act? Can you explain</p> <p>2 it?</p> <p>3 MS. MACKIN: Objection, form.</p> <p>4 You can answer.</p> <p>5 A. To -- to my -- to my limited ability to</p> <p>6 describe it, it is basically things that are put into</p> <p>7 place to help ensure that individuals are given the</p> <p>8 opportunity to register and then -- not only to</p> <p>9 register, but then to actually vote in -- in elections.</p> <p>10 Q. (BY MS. CHAMPION) What -- so we talked about</p> <p>11 some of the ways DPS carries out its voter registration</p> <p>12 duties. What would you describe as the functions that</p> <p>13 DPS has under the NVRA?</p> <p>14 MS. MACKIN: Objection, form.</p> <p>15 What topic is this responsive to?</p> <p>16 MS. CHAMPION: The...</p> <p>17 MS. MACKIN: I mean, we can talk about</p> <p>18 the policies, practices, and procedures. But just kind</p> <p>19 of the broad question about, like, functions --</p> <p>20 MS. CHAMPION: Yeah.</p> <p>21 MS. MACKIN: -- might be outside.</p> <p>22 MS. CHAMPION: Number 1, I suppose, the</p> <p>23 duties and responsibilities of employees, agents, et</p> <p>24 cetera, et cetera, and compliance with the NVRA and</p> <p>25 State laws or regulations.</p>



STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 94</p> <p>1 Both the online renewal and change of</p> <p>2 address processes have the question related to voter</p> <p>3 registration, and then that process provides a link</p> <p>4 which takes them to Texas Secretary of State.</p> <p>5 Q. Why does DPS include a voter registration</p> <p>6 question during the online renewal and change of address</p> <p>7 portion?</p> <p>8 A. So it is part of the plan between the</p> <p>9 Secretary of State and Department of Public Safety in</p> <p>10 compliance with the voter registration question being</p> <p>11 combined as part of the application process for a driver</p> <p>12 license or ID.</p> <p>13 Q. You said it's part -- part of a plan. We</p> <p>14 touched on this earlier also, but who developed that</p> <p>15 plan?</p> <p>16 A. That plan was developed between the Department</p> <p>17 of Public Safety and Secretary of State.</p> <p>18 Q. And who at DPS and the Secretary of State was</p> <p>19 involved in deciding the way that the online question</p> <p>20 would -- would function?</p> <p>21 A. I would have to go back and see who the --</p> <p>22 because the -- the original plan was developed in '94</p> <p>23 for the office transactions and then modified when the</p> <p>24 mail renewal and online portions were added. I do not</p> <p>25 have the exact names of who was in that process. It</p>	<p style="text-align: right;">Page 95</p> <p>1 would have been -- back then they were -- would have</p> <p>2 been referred to as the Chief of Driver License</p> <p>3 Division, but I don't have the names of the people at</p> <p>4 the Secretary of State.</p> <p>5 Q. For the online process, when DPS and the</p> <p>6 Secretary of State decided that a voter registration</p> <p>7 question should be included online, why did they decide</p> <p>8 that?</p> <p>9 A. Because we are required to include the voter</p> <p>10 registration opportunity within the driver license and</p> <p>11 identification card application.</p> <p>12 Q. What requires you to do that?</p> <p>13 A. The -- and I -- I can't remember the names of</p> <p>14 all the -- but basically the NVRA and Chapter 20 of the</p> <p>15 Election Code and Texas Statute.</p> <p>16 Q. I'm going to refer back to Exhibit 3M, the</p> <p>17 mail-in renewal form. And it's recently been revised,</p> <p>18 but when did DPS start using mail renewal notice forms?</p> <p>19 A. I believe it was in 1998 or '99.</p> <p>20 Q. And this version in -- in Exhibit 3M was --</p> <p>21 was renewed February two -- 2017. Before that, what was</p> <p>22 the revision date? Sorry. When was it last revised</p> <p>23 before 2017?</p> <p>24 A. I would have to go back and find that</p> <p>25 information.</p>
<p style="text-align: right;">Page 96</p> <p>1 Q. Is there a voter registration question on the</p> <p>2 DR-32?</p> <p>3 A. No.</p> <p>4 Q. Has there ever been a voter registration</p> <p>5 question on any version of the DR-32?</p> <p>6 MS. MACKIN: I'm going to just object to</p> <p>7 the extent that this is prior to January 1st, 2012, the</p> <p>8 topics that she's designated on here.</p> <p>9 But besides that, you can answer.</p> <p>10 A. To my knowledge, no, it's always -- we have</p> <p>11 always included a voter registration application form</p> <p>12 provided by the Secretary of State within the mail</p> <p>13 renewal packet.</p> <p>14 Q. (BY MS. CHAMPION) If you look at the back of</p> <p>15 the form, at the top it says Registration Renewal Guide,</p> <p>16 Read Carefully. And there's a box that says, (as read):</p> <p>17 No waiting in line. Three easy ways to renew.</p> <p>18 The first of those is Internet renewal.</p> <p>19 A. Uh-huh.</p> <p>20 Q. Does DPS want people to renew online rather</p> <p>21 than by mail?</p> <p>22 A. If they're eligible, yes.</p> <p>23 Q. Why?</p> <p>24 A. It reduces the traffic within the office and</p> <p>25 reduces overall wait times.</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Did DPS consult the Secretary of State about</p> <p>2 this form, about the creation of this form?</p> <p>3 MS. MACKIN: I'm going to object to the</p> <p>4 extent it's before January 1st, 2012.</p> <p>5 But other than that, you can answer.</p> <p>6 A. To my knowledge, not on the actual DR-32 form.</p> <p>7 They were consulted regarding the process and the</p> <p>8 information that would be included on the voter</p> <p>9 registration application card.</p> <p>10 Q. (BY MS. CHAMPION) Did DPS discuss with the</p> <p>11 Secretary of State the fact that a voter registration</p> <p>12 application card would accompany this form separately?</p> <p>13 MS. MACKIN: And, again, I'm going to</p> <p>14 object to the extent it's before January 1st, 2012 as</p> <p>15 designated in the this 30(b)(6) notice.</p> <p>16 But beyond that, you can answer.</p> <p>17 THE WITNESS: Okay.</p> <p>18 A. Now, I'm sorry. Ask the question again.</p> <p>19 Q. (BY MS. CHAMPION) Did DPS discuss with the</p> <p>20 Secretary of State the fact that a voter registration</p> <p>21 card would be included separately with this form when it</p> <p>22 was sent to customers?</p> <p>23 A. Yes, there would have been those discussions</p> <p>24 because they -- they had provided us the approved form</p> <p>25 that was going to be inserted.</p>

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<p style="text-align: right;">Page 98</p> <p>1 Q. Does DPS transmit customer information it 2 receives from driver license renewal applications to the 3 Secretary of State for purposes of updating an 4 applicant's voter registration status?</p> <p>5 A. They do for applications that occur in an 6 office, and then the mail-in address change.</p> <p>7 Q. Those are the only two circumstances?</p> <p>8 A. Yes.</p> <p>9 Q. So not by mail change of address?</p> <p>10 A. No, not by mail renewal. Mail change of 11 address, they do.</p> <p>12 Q. Got it. Got it.</p> <p>13 Can DPS track the information that it 14 sends to the Secretary of State regarding customers who 15 wanted to register to vote?</p> <p>16 A. Do you mean can -- can we look at the record 17 and determine?</p> <p>18 Q. Yes. Can DPS look at any record to see if 19 they have indeed sent the Secretary of State specific 20 information?</p> <p>21 A. Yes. Now, I quantify that because that 22 information is contained in the audit trail, so just 23 someone looking at the screen could not confirm that the 24 information was sent, other than the fact that the voter 25 registration says yes. So the assumption is that it</p>	<p style="text-align: right;">Page 99</p> <p>1 went. It would require IT to -- to assist us, but it is 2 placed in the audit trail.</p> <p>3 Q. Does DPS treat all valid and complete change 4 of address forms submitted to DPS as notices of change 5 of address for voter registration purposes?</p> <p>6 MS. MACKIN: Objection, form.</p> <p>7 You can answer.</p> <p>8 A. Are you talking about the ones that are 9 submitted in office? through the mail?</p> <p>10 Q. (BY MS. CHAMPION) All of them, uh-huh.</p> <p>11 A. Okay. So, again, the -- the ones that are 12 treated -- or that are submitted to Texas Secretary of 13 State as change of address or for voter application 14 would be those that occur in the office or those that do 15 a mail in.</p> <p>16 Q. So not all of them then?</p> <p>17 MS. MACKIN: Objection, form.</p> <p>18 You can answer.</p> <p>19 A. Again, clarifying for the change of address 20 application --</p> <p>21 Q. (BY MS. CHAMPION) Correct.</p> <p>22 A. -- that would be correct. The online change 23 of address applications are referred to Texas Secretary 24 of State.</p> <p>25 Q. Okay. Does DPS always transmit all valid</p>
<p style="text-align: right;">Page 100</p> <p>1 change of address information that it obtains from 2 customers to the Secretary of State?</p> <p>3 A. So in addition to the voter registration 4 extract file, there is a daily file that is sent to the 5 Secretary of State that would contain all applications 6 that had a change of name, date of birth, or address. 7 And that is not sent as a voter extract file. You would 8 have to talk to the Secretary of State to determine -- 9 for them to determine and tell you what they do with 10 that information.</p> <p>11 Q. You mentioned that happens with in-person 12 applications. Does it happen for mail change of address 13 information?</p> <p>14 A. So the daily update file contains all 15 transactions, whether they occur either in the office, 16 by mail, or online.</p> <p>17 Q. And why does DPS send the Secretary of State 18 that information?</p> <p>19 A. That is a process that was established prior 20 to the driver license system. It was an interface file 21 that was developed prior to DLS, and then was just 22 transferred over. It was at the request or through the 23 discussion between DPS and Secretary of State. There 24 was no one who could provide me information as to why it 25 originated.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. So you, as a representative of DPS, cannot -- 2 cannot answer why DPS now transmits all daily file 3 updates to the Secretary of State; is that correct?</p> <p>4 A. I can't tell you what Secretary of State does 5 with the information, no. The -- I can't -- I -- I 6 cannot tell you the exact reasons behind the 7 establishment because there was no one available that 8 could provide me that information.</p> <p>9 Q. Does DPS send the Secretary of State these 10 update files because the Secretary of State instructed 11 DPS to do so?</p> <p>12 MS. MACKIN: Objection, form.</p> <p>13 And I'll also note that to the extent 14 that this process was developed before 2012, it's 15 outside the scope of the topics the witness is 16 designated on under 30(b)(6).</p> <p>17 A. So I mean it's an assumption that there was a 18 discussion and that they wanted the data. We -- we 19 wouldn't have just randomly decided to start sending 20 them the data. There would have been discussions, and 21 Secretary of State would have had a reason for wanting 22 that data. I can't tell you what that reason is. That 23 would be Secretary of State.</p> <p>24 Q. (BY MS. CHAMPION) So -- okay. That was the 25 daily update file. Does DPS then transmit all valid</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 102</p> <p>1 change of address information it obtains from customers  2 to the Secretary of State in the voter registration  3 extract file?  4 A. The voter registration extract file is only --  5 or the only records obtained in that file are customers  6 who applied in person for any type of transaction or  7 through the mail change of address DL-64 process that  8 indicated that they would like that to serve as a voter  9 registration application.  10 Q. So you've identified in-person and mail  11 transactions. So is it true that DPS does not transmit  12 change of address information it obtains from customers  13 to the Secretary of State in the voter -- I'm sorry --  14 in the secr- -- to the Secretary of State that it  15 collects from online transactions?  16 A. So in the voter registration extract file --  17 Q. Yeah.  18 A. -- the online transactions are not included in  19 that process.  20 Q. And why aren't they included?  21 A. Again, that was determined by discussions  22 through -- between the Department and Secretary of State  23 when the -- the processes were being established.  24 Q. You said the process was established when?  25 A. Online was established in two -- either --</p>	<p style="text-align: right;">Page 103</p> <p>1 either late 2000 or early 2001.  2 Q. But DPS has made the decision to continue  3 undertaking this process; is that right?  4 A. Undertaking which process?  5 Q. I mean, you still transfer -- even though it  6 was established in 2000, 2001 DPS still transfers the  7 voter extract file; is that right?  8 A. Okay. I think there's confusion. So we began  9 the online DL renewal and address change application  10 process in early 2000. The voter registration extract  11 file was not created until 2009 when we implemented  12 driver license system. So prior -- those -- those plans  13 were put in place prior to that electronic transfer of  14 data.  15 Q. But the -- yes, I understand. Thank you.  16 But the fact that DPS does not transmit  17 change of address information it obtains from customers  18 to the Secretary of State via the voter registration  19 extract file, the fact that it doesn't do that for  20 online transactions currently, I'm asking you to tell me  21 why it currently doesn't do that, not why the decision  22 was made prior to you holding this position within DPS.  23 A. Because we have not been advised by the  24 Secretary of State that providing that through the  25 online process is permissible at this point.</p>
<p style="text-align: right;">Page 104</p> <p>1 Q. Has DPS consulted the Secretary of State about  2 whether it should be transmitting --  3 A. It's my understanding that conversations that  4 occurred when the driver license system was being  5 developed and the -- the voter registration extract file  6 was being discussed, it was determined we would not  7 update online to include -- or to be included in that  8 process.  9 Q. Has the Secretary of State provided DPS with  10 any instructions with respect to whether it should treat  11 valid, completed change of address forms as  12 notifications of change of address for voter  13 registration purposes?  14 A. To my --  15 MS. MACKIN: Objection, form.  16 You can answer.  17 A. To my knowledge, they have not provided us any  18 instruction on changing the procedures that are  19 currently in place, no.  20 Q. (BY MS. CHAMPION) You said to -- to your  21 knowledge. Is that also in the knowledge of DPS?  22 A. Yes, it is.  23 Q. Do DPS's change of address forms allow the  24 customer to state on there -- on the form that the  25 change of address is not to be used for voter</p>	<p style="text-align: right;">Page 105</p> <p>1 registration purposes?  2 MS. MACKIN: Objection, form.  3 You can answer.  4 A. So if -- I mean, the question is a yes-or-no  5 answer. So if they select "no," then yes, that would  6 indicate they do not want it used as change of address.  7 Q. (BY MS. CHAMPION) Looking at Exhibit 3Q, it's  8 a DL-64, the newest version. The voter registration  9 question states, (as read): If you are a U.S. citizen,  10 would you like to register to vote? If registered,  11 would you like update your voter information?  12 Is that correct?  13 A. Correct.  14 Q. But that question does not give a customer an  15 option to state that this change of address is not to be  16 used for voter registration purposes; is that correct?  17 MS. MACKIN: Objection, form.  18 You can answer.  19 A. So the assumption is by checking "no," that  20 they are not wishing for it to be served as voter  21 registration.  22 Q. (BY MS. CHAMPION) If that's the case, does  23 their information, their new address, still get sent to  24 the Secretary of State?  25 A. Their information would be included in the</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 174</p> <p>1 obtained signature to any entity for any purpose?</p> <p>2 A. No, not outside the agency. The only thing</p> <p>3 that previous electronic signature is used for in an</p> <p>4 online transaction is it's placed on the actual</p> <p>5 identification card or driver license. So it's used in</p> <p>6 the card production, but it's not transmitted outside to</p> <p>7 any outside entities.</p> <p>8 THE VIDEOGRAPHER: Forgive the</p> <p>9 interruption, but is there any way you can move the blue</p> <p>10 binder down?</p> <p>11 Q. (BY MS. CHAMPION) Does submitting an</p> <p>12 electronic signature to the Secretary of State for --</p> <p>13 for voter registration purposes satisfy the obligations</p> <p>14 of DPS under the NVRA?</p> <p>15 MS. MACKIN: Objection, form.</p> <p>16 A. So the electronic signature is transferred</p> <p>17 from an in-office application, and those decisions were</p> <p>18 made in conversation with general counsel between</p> <p>19 departmental -- departmental -- Department of Public</p> <p>20 Safety and Secretary of State. So for the purposes of</p> <p>21 those transactions, yes.</p> <p>22 Q. (BY MS. CHAMPION) I can't remember if I asked</p> <p>23 this specific question. Why does DPS not require a</p> <p>24 signature in rela- -- in relation to telephone</p> <p>25 transactions?</p>	<p style="text-align: right;">Page 175</p> <p>1 MS. MACKIN: Objection, form.</p> <p>2 A. Telephone transactions are handled in the same</p> <p>3 manner as an online transaction. There is an</p> <p>4 authentication process they go through. So you're</p> <p>5 assuming that you're dealing with the customer</p> <p>6 themselves. And the statute requires a signature on an</p> <p>7 original application, and that's -- the alternative</p> <p>8 methods of renewal and change of address are only</p> <p>9 available to established customers who have already</p> <p>10 provided identity, residency, lawful presence</p> <p>11 information, as well as a signature on their</p> <p>12 application.</p> <p>13 Q. (BY MS. CHAMPION) When a customer changes</p> <p>14 their address over the telephone, does the signature</p> <p>15 that DPS already have on file stay on the physical face</p> <p>16 of the driver license?</p> <p>17 A. Again, the only transaction type that can be</p> <p>18 done through IVR is a renewal.</p> <p>19 Q. Sorry. So when a customer renews a driver's</p> <p>20 license on -- over the telephone, does DPS use the</p> <p>21 signature that was previously on file to -- to put on</p> <p>22 the customer's renewed driver's license?</p> <p>23 A. Yes.</p> <p>24 Q. If DPS were directed to do so, does it have</p> <p>25 the ability to send the Secretary of State the</p>
<p style="text-align: right;">Page 176</p> <p>1 electronic signatures of customers who renew or change</p> <p>2 their address online?</p> <p>3 A. So if the Secretary of State determined that</p> <p>4 that was acceptable under the statutes and everything</p> <p>5 that they process under and they directed us, yes, it</p> <p>6 could be accomplished. But it would take conversation</p> <p>7 between Secretary of State and Department of Public</p> <p>8 Safety and Texas NIC.</p> <p>9 Q. Has DPS ever considered taking that action?</p> <p>10 A. At this point we have not been -- we have not</p> <p>11 considered that action because those -- we have never</p> <p>12 been directed by Secretary of State or advised that</p> <p>13 that's acceptable.</p> <p>14 Q. Has DPS ever consulted the Secretary of State</p> <p>15 about whether it should send the electronic signatures</p> <p>16 of customers who complete renewals or change of</p> <p>17 addresses online --</p> <p>18 MS. MACKIN: Objection, form.</p> <p>19 Q. (BY MS. CHAMPION) -- to the Secretary of</p> <p>20 State?</p> <p>21 MS. MACKIN: Objection, form.</p> <p>22 A. Again, the only time I'm aware that that</p> <p>23 became -- or was a small topic of conversation was</p> <p>24 during the DL reengineering project when the decision</p> <p>25 was made to electronically transfer the voter</p>	<p style="text-align: right;">Page 177</p> <p>1 registration applications from the field offices. And</p> <p>2 it was determined at that time that the online process</p> <p>3 would remain the same.</p> <p>4 Q. (BY MS. CHAMPION) And who was involved in</p> <p>5 that conversation?</p> <p>6 A. It would have been Secretary of State and</p> <p>7 Department of Public Safety.</p> <p>8 Q. Can you identify any individuals from DPS that</p> <p>9 were involved in that conversation?</p> <p>10 MS. MACKIN: I believe this took place in</p> <p>11 2008, outside the scope of the testimony that Ms. Gipson</p> <p>12 is here to provide today.</p> <p>13 Q. (BY MS. CHAMPION) Did the driver's license</p> <p>14 reengineering project take place -- do you know when it</p> <p>15 took place?</p> <p>16 A. It began in 2005 and culminated with a</p> <p>17 deployment in 2009/2010.</p> <p>18 Q. Looking at Exhibit 2, Topic 6 on page 5. It's</p> <p>19 the topic designations -- Defendant's Topic Designations</p> <p>20 for -- for Sheri Gipson. Topic No. 6 is not bound by a</p> <p>21 time period, so that DPS should be able to answer</p> <p>22 questions about policies, practices, and procedures</p> <p>23 prior to 2012.</p> <p>24 MS. MACKIN: Related to which one of</p> <p>25 these subparts?</p>



STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 202</p> <p>1 A. Uh-huh.</p> <p>2 Q. Okay.</p> <p>3 A. Yes. I'm sorry.</p> <p>4 Q. Thank you.</p> <p>5 You -- you indicated that the decision</p> <p>6 was made to modify the in-office -- the way the</p> <p>7 in-office process would work for the voter registration</p> <p>8 question, and that the decision was made not to modify</p> <p>9 the online version of that. Is that --</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Can you tell me why -- or please tell</p> <p>12 me why the decision was made not to modify the online</p> <p>13 transaction.</p> <p>14 A. The decision was made based on discussions</p> <p>15 that were -- that occurred. I was not provided any</p> <p>16 documentations that outlined those discussions. But the</p> <p>17 creation of the new file was conversations that were</p> <p>18 held with Secretary of State and what would be included</p> <p>19 in that file.</p> <p>20 Q. You say creation of new file. You're talking</p> <p>21 about the voter registration daily file --</p> <p>22 A. Extract, correct.</p> <p>23 Q. Sitting here today, as the representative of</p> <p>24 DPS for 30(b)(6) on -- on the policy and procedures</p> <p>25 surrounding this issue, can you tell me why the decision</p>	<p style="text-align: right;">Page 203</p> <p>1 was made not to modify the -- the online voter</p> <p>2 registration part?</p> <p>3 A. It is -- it is my understanding that the</p> <p>4 decision was made based on requirements for voter</p> <p>5 registration, and the requirements required -- it makes</p> <p>6 it sound funny -- the requirements of having a signature</p> <p>7 at the time of application.</p> <p>8 Q. So -- so drilling down from that, you said</p> <p>9 based on the requirements for voter registration. And</p> <p>10 particularly, you're saying based on the requirement for</p> <p>11 a signature for the voter --</p> <p>12 A. Right.</p> <p>13 Q. -- registration; is that --</p> <p>14 A. Right. The -- the information provided is</p> <p>15 that Texas statute does not allow for online voter --</p> <p>16 voter registration. It requires a signature with the</p> <p>17 application. And for the online process, we are not</p> <p>18 collecting a new signature as part of that process.</p> <p>19 Q. I want to see if I can under- -- understand</p> <p>20 this fully. So the -- the signature that is sent for an</p> <p>21 in-person transaction where someone answers "yes" to the</p> <p>22 voter registration question and -- and similarly when</p> <p>23 someone changes their address -- excuse me -- address</p> <p>24 via the mail, the signature that's sent for both of</p> <p>25 those voter registration applications, that's the</p>
<p style="text-align: right;">Page 204</p> <p>1 electronic signature; is that right?</p> <p>2 A. That is correct.</p> <p>3 Q. And that's sent to the Secretary of State?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. The ink signature is never sent to the</p> <p>6 Secretary of State, correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Okay. If you'll look over the Use Case there</p> <p>9 you have in front of you, staying on the same exhibit,</p> <p>10 would you confirm for me that the information regarding</p> <p>11 the -- well, let me rephrase that. The information</p> <p>12 that's provided by a customer in an online transaction</p> <p>13 with DPS -- you'll agree with me that there's</p> <p>14 information provided by the customer in those</p> <p>15 transactions?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. The -- looking through the use space,</p> <p>18 is the only information that's provided by the customer</p> <p>19 that's not transferred from Texas.gov to DLS the answer</p> <p>20 to the voter registration question?</p> <p>21 A. That's correct.</p> <p>22 Q. Turn to me -- turn with me -- excuse me -- to</p> <p>23 page 9 where it talks about business rules.</p> <p>24 A. Okay.</p> <p>25 Q. Do you see that?</p>	<p style="text-align: right;">Page 205</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Under the Business Rule 1.1.10 heading,</p> <p>3 there's Selective Service and DRP, is that right, as</p> <p>4 kind of subheadings under there?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. I want -- I just want to make sure I</p> <p>7 understand the Use Case correctly. Under Selective</p> <p>8 Service if -- if -- if the field is marked "yes" for</p> <p>9 selective service, then certain information is sent by</p> <p>10 DLS to some other entity; is that right?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And who -- who -- to whom is that</p> <p>13 information sent?</p> <p>14 A. So the -- the system creates a file that is</p> <p>15 sent to Selective Service that includes any males that</p> <p>16 fall within the age range of registration. So prior to,</p> <p>17 when Selective Service first began, the person -- the</p> <p>18 customer could elect whether or not that was sent.</p> <p>19 Under current statute, we send any male that meets the</p> <p>20 criteria to the Selective Service.</p> <p>21 Q. Okay. And that -- that -- this is -- the DL</p> <p>22 is programmed to do this once a person is determined to</p> <p>23 meet the requirements for Selective Service, DLS</p> <p>24 automatically sends that information in -- in an update</p> <p>25 file to Selective Service?</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 214</p> <p>1 voter registration application process. But I don't --</p> <p>2 I'm not completely aware of all of the specifics.</p> <p>3 Q. (BY MS. STEVENS) Well, describe for me the</p> <p>4 conversations DPS has had about that period.</p> <p>5 A. The only conversations that -- nothing was</p> <p>6 brought to me when I was asking for information. And</p> <p>7 the only conversations I've had regarding that is with</p> <p>8 general counsel.</p> <p>9 Q. Okay. And was a policy developed to determine</p> <p>10 not to do -- not to implement similar -- similar</p> <p>11 policies?</p> <p>12 A. So -- I'm not sure I follow.</p> <p>13 Q. Based on the conversations surrounding this</p> <p>14 change that Alabama's implementing, did Texas then make</p> <p>15 the decision not to change policy and do something</p> <p>16 similar?</p> <p>17 MS. MACKIN: Objection, form.</p> <p>18 A. That's -- it's not a conversation that we've</p> <p>19 had with the Secretary of State since that decision by</p> <p>20 Alabama was made.</p> <p>21 Q. (BY MS. STEVENS) But did it have -- did you</p> <p>22 have that discussion internally?</p> <p>23 A. No. There was not a discussion related to us</p> <p>24 starting that process just because Alabama did.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 215</p> <p>1 MS. STEVENS: We're going to take a</p> <p>2 three-minute break.</p> <p>3 THE VIDEOGRAPHER: Going off the record</p> <p>4 at 5:45 p.m.</p> <p>5 (Recess held, 5:45 p.m. to 5:52 p.m.)</p> <p>6 THE VIDEOGRAPHER: We are back on the</p> <p>7 record at 5:52 p.m.</p> <p>8 EXAMINATION</p> <p>9 BY MS. SILHAN:</p> <p>10 Q. Hi, Ms. Gipson.</p> <p>11 A. Hello.</p> <p>12 Q. I'm Caitlyn Silhan on behalf of Benjamin</p> <p>13 Hernandez. We've met before. I have just three</p> <p>14 questions for you now. So you just testified that DPS</p> <p>15 decided not to modify the voter registration file with</p> <p>16 respect to online transactions at one point, at least in</p> <p>17 part, because Texas law requires a signature at the time</p> <p>18 of a voter registration application; is that correct?</p> <p>19 MS. MACKIN: Objection, form.</p> <p>20 A. Correct.</p> <p>21 Q. (BY MS. SILHAN) Does Texas law require that</p> <p>22 DPS collect a signature for a change of address</p> <p>23 transaction?</p> <p>24 MS. MACKIN: Objection, form.</p> <p>25 A. So Texas law does not require it on a change</p>
<p style="text-align: right;">Page 216</p> <p>1 of address application processed online because the</p> <p>2 signature had been previously captured.</p> <p>3 Q. (BY MS. SILHAN) Okay. So if a customer</p> <p>4 completes a change of address form online, that is valid</p> <p>5 for driver license purposes? It changes their address</p> <p>6 for driver license purposes; is that correct?</p> <p>7 A. Correct.</p> <p>8 MS. SILHAN: That is all I have, believe</p> <p>9 it or not. So I'll pass the witness.</p> <p>10 MS. MACKIN: Thank you. Before we get</p> <p>11 started, just on the record, I would like to request a</p> <p>12 read and sign of this deposition transcript.</p> <p>13 And I just have one exhibit.</p> <p>14 (Exhibit D1 marked.)</p> <p>15 EXAMINATION</p> <p>16 BY MS. MACKIN:</p> <p>17 Q. Ms. Gipson, I'm handing you what's been marked</p> <p>18 Defendant's Exhibit 1. Do you recognize this document?</p> <p>19 A. Yes.</p> <p>20 Q. What is it?</p> <p>21 A. This is the Amended Notice No. 3 requesting</p> <p>22 the 30(b)(6) deposition.</p> <p>23 Q. And that's the deposition that's taking place</p> <p>24 today, correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. And what date is on this notice?</p> <p>2 A. As far as the date of the deposition?</p> <p>3 Q. Yes.</p> <p>4 A. Sorry. March 6th at 9:30 a.m.</p> <p>5 Q. Did you appear here at the Attorney General's</p> <p>6 Office yesterday at 9:30 a.m. to sit for this</p> <p>7 deposition?</p> <p>8 A. Yes, ma'am.</p> <p>9 Q. And what time did you arrive?</p> <p>10 A. Shortly after 9 a.m.</p> <p>11 Q. And how long were you here?</p> <p>12 A. Until around 11:00 a.m.</p> <p>13 Q. And did the deposition take place?</p> <p>14 A. No, it did not.</p> <p>15 Q. And was that because no court reporter or</p> <p>16 videographer was scheduled?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay. Thank you.</p> <p>19 Now, I'm going to just go back to a</p> <p>20 couple of questions that you were asked earlier today.</p> <p>21 You were asked in several ways about how individuals who</p> <p>22 transact with the Department of Public Safety online are</p> <p>23 given the opportunity to register to vote. Do you</p> <p>24 remember those questions?</p> <p>25 A. Yes.</p>

STRINGER: SHERI GIPSON

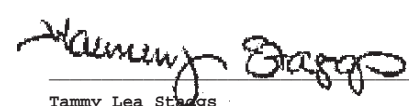
<p style="text-align: right;">Page 218</p> <p>1 Q. Can you clarify how that works?</p> <p>2 A. So when the customer logs into the online</p> <p>3 system, they're authorized based on four pieces of</p> <p>4 identity information. They then go through several</p> <p>5 screens where they identify if they want to -- if they</p> <p>6 need to update their address, organ donor, VAF and</p> <p>7 veteran assistance fund donations, and voter</p> <p>8 registration. That's in the services options. And if</p> <p>9 they -- as they progress on, if they select "yes" to the</p> <p>10 voter registration, it appears again on the review page</p> <p>11 along with the options that they selected for organ</p> <p>12 donor, Glenda Dawson donation, VAF donation, and</p> <p>13 veteran's assistance fund donation.</p> <p>14 And once they get past that screen, they</p> <p>15 accept all of those -- the changes or the information</p> <p>16 that was inputted, they're put to a receipt page. If</p> <p>17 they selected "yes" to the register to vote, there is a</p> <p>18 link that's provided that takes them to the Secretary of</p> <p>19 State website where they can download -- they have the</p> <p>20 opportunity to download and sign and send in a</p> <p>21 registration application. And then they're also given</p> <p>22 the option to print the receipt page.</p> <p>23 Q. And that registration application, is it your</p> <p>24 understanding that that's the -- that is the application</p> <p>25 approved by the Secretary of State's office?</p>	<p style="text-align: right;">Page 219</p> <p>1 A. Yes, it is the -- the one from their website.</p> <p>2 Q. Okay. And the information, just to clarify,</p> <p>3 that is verified before the customer may begin the</p> <p>4 transaction -- those four pieces of information that you</p> <p>5 just talked about -- do those -- does DPS do anything</p> <p>6 with those pieces of information to verify whether an</p> <p>7 individual is eligible to register to vote or update</p> <p>8 voter registration information?</p> <p>9 A. No. Those pieces are not used for that</p> <p>10 purpose.</p> <p>11 Q. The pieces of information are simply used to</p> <p>12 verify that the individual is eligible to transact with</p> <p>13 DPS online?</p> <p>14 A. Correct.</p> <p>15 Q. And to verify their identity?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. Thank you.</p> <p>18 You were asked a couple of questions</p> <p>19 about how DPS publicizes the availability of certain</p> <p>20 transactions online, and you testified that DPS wants to</p> <p>21 reduce wait times and in-office traffic. Do you recall</p> <p>22 that testimony?</p> <p>23 A. Yes.</p> <p>24 Q. Why does DPS want to reduce wait times and</p> <p>25 in-office traffic in its field offices?</p>
<p style="text-align: right;">Page 220</p> <p>1 A. Because that is one of the main complaints</p> <p>2 that we have from customers, both directly and through</p> <p>3 legislators and -- because many times they're expected</p> <p>4 to wait several hours in order to conduct their</p> <p>5 business.</p> <p>6 Q. And so what complaint is that specifically?</p> <p>7 A. The complaint is the amount of time that they</p> <p>8 have to spend waiting in line to get their driver</p> <p>9 license or identification card.</p> <p>10 Q. Okay. Thank you.</p> <p>11 Ms. Champion, also asked you whether a</p> <p>12 customer could request in some way that their</p> <p>13 information not be included in the daily update file.</p> <p>14 And you testified that a customer could not make that</p> <p>15 request; is that right?</p> <p>16 A. That is correct.</p> <p>17 Q. Can a customer request that their information</p> <p>18 not be included in the voter registration file?</p> <p>19 A. If they are conducting an in-office</p> <p>20 transaction, they're making that designation when they</p> <p>21 select "no" to the voter registration question.</p> <p>22 Q. Okay. Thank you.</p> <p>23 And now I'm just going to turn your</p> <p>24 attention back to Plaintiff's Exhibit 13, which is</p> <p>25 Module 17C.</p>	<p style="text-align: right;">Page 221</p> <p>1 A. Okay.</p> <p>2 Q. And if you'll turn to page 6, please.</p> <p>3 A. Okay.</p> <p>4 Q. Ms. Champion also asked you some questions</p> <p>5 about the purpose of the signature on the in-office</p> <p>6 driver license application, the DL-14?</p> <p>7 A. Correct.</p> <p>8 Q. Now, is this certification on page 6, is that</p> <p>9 where the signature is provided on the DL-14?</p> <p>10 A. Yes.</p> <p>11 Q. And could you please read into the record what</p> <p>12 the applicant is certifying when they provide that</p> <p>13 signature on the DL-14?</p> <p>14 A. (As read): I do solemnly swear, affirm, or</p> <p>15 certify that I am the person named herein and that the</p> <p>16 statements on this application are true and correct. I</p> <p>17 further certify my residence address is a -- check one</p> <p>18 -- single family dwelling, apartment, motel, temporary</p> <p>19 shelter. I agree to immediately report to the Texas</p> <p>20 department of public safety any changes in my medical</p> <p>21 condition, which may affect my ability to safely operate</p> <p>22 a motor vehicle. I further understand that I am</p> <p>23 required by law to report any change of name or address</p> <p>24 to the Department of Public Safety within 30 days.</p> <p>25 Q. Okay. Thank you.</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 222</p> <p>1 MS. MACKIN: We'll pass the witness.</p> <p>2 FURTHER EXAMINATION</p> <p>3 BY MS. SILHAN:</p> <p>4 Q. Okay. I will have just a few follow-up</p> <p>5 questions. Let's start with the document you were just</p> <p>6 looking at.</p> <p>7 A. Okay.</p> <p>8 Q. So this is where a physical signature is</p> <p>9 required in person, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And this would be for DL-14; is that right?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Now, it says that -- that by signing,</p> <p>14 the applicant certifies that their application is true</p> <p>15 and correct, but also that their residence address is a</p> <p>16 -- and then they check one -- single-family dwelling,</p> <p>17 apartment, motel, temporary shelter. Is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. How do applicants certify that online?</p> <p>20 A. They -- that certification is not online at</p> <p>21 this time.</p> <p>22 Q. Why is that?</p> <p>23 A. It -- it is actually in the works. It's being</p> <p>24 discussed now because it was pointed out that it was not</p> <p>25 in that add a station. That is in -- on that last page</p>	<p style="text-align: right;">Page 223</p> <p>1 of the Web page.</p> <p>2 Q. Okay.</p> <p>3 A. So they are in the process of adding that</p> <p>4 language.</p> <p>5 Q. Okay. Ms. Mackin also asked you about the</p> <p>6 receipt page for online transactions; is that correct?</p> <p>7 Do you recall discussing the receipt page here today?</p> <p>8 A. Right.</p> <p>9 Q. Okay. So I understand there is some</p> <p>10 information about voter registration with a link to the</p> <p>11 Secretary of State's website on the receipt page,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. Now, does the receipt page say anything about</p> <p>15 changing addresses for voter registration purposes?</p> <p>16 A. No, it does not.</p> <p>17 Q. Okay. You mentioned there were four pieces of</p> <p>18 information that DPS verifies online to determine that</p> <p>19 maybe the person filling out the form is who they say</p> <p>20 they are; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Can you just remind me what those four pieces</p> <p>23 of information are?</p> <p>24 A. Okay. They're in the process authentication</p> <p>25 request.</p>
<p style="text-align: right;">Page 224</p> <p>1 Q. Okay.</p> <p>2 A. And it is listed on page 1.</p> <p>3 Q. Okay.</p> <p>4 A. It's the DL/ID number, the audit number, the</p> <p>5 last four digits of the social, and the date of birth.</p> <p>6 Q. Now, in terms of -- of information that's only</p> <p>7 requested online and maybe not by other forms -- I'm</p> <p>8 going to go through this. So for a driver license</p> <p>9 identification number, that would be requested on a</p> <p>10 paper form as well; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. What about an audit number, is that</p> <p>13 requested on paper forms?</p> <p>14 A. No, it's not.</p> <p>15 Q. Okay. What about the last four numbers of a</p> <p>16 social security number, is that requested by DPS on</p> <p>17 paper forms?</p> <p>18 A. The social security number is requested.</p> <p>19 Q. What about the date of birth, is that</p> <p>20 requested?</p> <p>21 A. It is.</p> <p>22 Q. So the only bit of information that a customer</p> <p>23 provides, in addition to information the customer</p> <p>24 provides on paper forms, for purposes of online</p> <p>25 transactions, is the audit number on the face of a</p>	<p style="text-align: right;">Page 225</p> <p>1 driver license; is that right?</p> <p>2 A. That's correct.</p> <p>3 Q. You also discussed customer complaints as part</p> <p>4 of the reason that DPS is -- is promoting its online</p> <p>5 transaction; is that correct?</p> <p>6 A. Correct.</p> <p>7 Q. You mentioned complaints about the amount of</p> <p>8 time that customers spend waiting in line to get their</p> <p>9 driver license and ID cards; is that right?</p> <p>10 A. That is correct.</p> <p>11 Q. But customers don't obtain driver license and</p> <p>12 ID cards online, right? They just renew or change their</p> <p>13 address; is that correct?</p> <p>14 A. So when you say "obtain," I mean, they are</p> <p>15 obtaining a new card because that's part of the renewal</p> <p>16 or the change of the address process.</p> <p>17 Q. Okay. So I just wanted to clarify that when</p> <p>18 you said the amount of time they're waiting to get a</p> <p>19 driver license or ID card, it's only the -- the renewals</p> <p>20 and change of address that are really, kind of, being</p> <p>21 directed to online where they're eligible, right?</p> <p>22 A. That is correct. If it's an original</p> <p>23 issuance, they are required to go into the driver</p> <p>24 license office.</p> <p>25 Q. You also touched on the issue of opting out --</p>



STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 238</p> <p>1 That pursuant to information given to the</p> <p>2 deposition officer at the time said testimony was taken,</p> <p>3 the following includes counsel for all parties of</p> <p>4 record:</p> <p>5 FOR THE PLAINTIFF, JARROD STRINGER:</p> <p>6 Cassandra Champion, Esq.</p> <p>7</p> <p>8 FOR THE PLAINTIFF, JOHN FRITZ:</p> <p>9 Beth Stevens, Esq.</p> <p>10</p> <p>11 FOR THE PLAINTIFF, BENJAMIN</p> <p>12 HERNANDEZ:</p> <p>13 Caitlyn Elizabeth Silhan, Esq.</p> <p>14</p> <p>15 FOR THE DEFENDANTS:</p> <p>16 Anna M. Mackin, Esq.</p> <p>17 Esteban Soto, Esq.</p> <p>18 Kathleen T. Murphy, Esq.</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 That \$_____ is the deposition officer's</p> <p>24 charges to the Plaintiffs for preparing the original</p> <p>25 deposition transcript and any copies of exhibits;</p> <p style="text-align: right;">Page 240</p> <p>1 COUNTY OF _____)</p> <p>2 STATE OF TEXAS)</p> <p>3 I hereby certify that the witness was notified</p> <p>4 on _____ that the witness has 30 days</p> <p>5 or (____ days per agreement of counsel) after being</p> <p>6 notified by the officer that the transcript is available</p> <p>7 for review by the witness and if there are changes in</p> <p>8 the form or substance to be made, then the witness shall</p> <p>9 sign a statement reciting such changes and the reasons</p> <p>10 given by the witness for making them;</p> <p>11 That the witness' signature was/was not</p> <p>12 returned as of _____, 20____.</p> <p>13 Subscribed and sworn to on this, the ____ day</p> <p>14 of _____, 20____.</p> <p>15</p> <p>16</p> <p>17 _____</p> <p>18 Tammy Lea Staggs</p> <p>19 CSR 7496</p> <p>20 Expiration Date: 12/31/2017</p> <p>21 Firm No. Dallas: 69</p> <p>22 1.888.656.DEPO</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 239</p> <p>1 I further certify that I am neither counsel</p> <p>2 for, related to, nor employed by any of the parties or</p> <p>3 attorneys in the action in which this proceeding was</p> <p>4 taken, and further that I am not financially or</p> <p>5 otherwise interested in the outcome of the action.</p> <p>6 Certified to by me this ____ day of</p> <p>7 _____, 20____.</p> <p>8</p> <p>9 </p> <p>10 Tammy Lea Staggs</p> <p>11 CSR 7496</p> <p>12 Expiration Date: 12/31/2017</p> <p>13 Firm No. Dallas: 69</p> <p>14 1.888.656.DEPO</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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# EXHIBIT 11

STRINGER: SHERI GIPSON

Page 1

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al., )

Plaintiffs, )

vs. ) C.A. 5:16-cv-00257-OLG

ROLANDO B. PABLOS, IN HIS )

OFFICIAL CAPACITY AS THE TEXAS )

SECRETARY OF STATE; AND STEVEN )

C. MCCRAW, IN HIS OFFICIAL )

CAPACITY AS THE DIRECTOR OF THE )

TEXAS DEPARTMENT OF PUBLIC )

SAFETY, )

Defendants. )

**CERTIFIED  
TRANSCRIPT**

ORAL VIDEOTAPED DEPOSITION OF SHERI GIPSON

TUESDAY, JANUARY 31, 2017

ORAL VIDEOTAPED DEPOSITION OF SHERI GIPSON,  
produced as a witness at the instance of the Plaintiffs,  
and duly sworn, was taken in the above-styled and  
-numbered cause on the 31st day of January, 2017, from  
9:44 a.m. to 5:59 p.m., before RABIN' MONROE, Certified  
Shorthand Reporter in and for the State of Texas,  
reported by computerized stenotype machine, at the TEXAS  
ATTORNEY GENERAL'S OFFICE, 300 West 15th Street, 10th  
Floor, Austin, Texas 78701, pursuant to any provisions  
stated on the record or attached hereto.

## STRINGER: SHERI GIPSON

Page 2	Page 4
<p>1 APPEARANCES</p> <p>2</p> <p>3 FOR PLAINTIFFS</p> <p>4 MS. CAITLYN ELIZABETH SILHAN</p> <p>5 SBOT No. 24072879</p> <p>6 csilhan@waterskraus.com</p> <p>7 WATERS &amp; KRAUS, LLP</p> <p>8 3141 Hood Street</p> <p>9 Suite 700</p> <p>10 Dallas, Texas 75219</p> <p>11 Phone: (214) 357-6244</p> <p>12 Fax: (214) 357-7252</p> <p>13 MS. MIMI MURRAY DIGBY MARZIANI</p> <p>14 SBOT No. 24091906</p> <p>15 mimi@texascivilrightsproject.org</p> <p>16 MS. CASSANDRA LANG "CASSIE" CHAMPION</p> <p>17 SBOT No. 24082799</p> <p>18 champion@texascivilrightsproject.org</p> <p>19 TEXAS CIVIL RIGHTS PROJECT</p> <p>20 1405 Montopolis Drive</p> <p>21 Austin, Texas 78741-3438</p> <p>22 Phone: (512) 474-5073</p> <p>23</p> <p>24 FOR DEFENDANTS</p> <p>25 MS. ANNE MARIE "ANNA" MACKIN</p> <p>26 SBOT No. 24078898</p> <p>27 anna.mackin@oag.texas.gov</p> <p>28 OFFICE OF THE ATTORNEY GENERAL</p> <p>29 300 West 15th Street,</p> <p>30 14th Floor</p> <p>31 Austin, Texas 78701</p> <p>32 Phone: (512) 463-2004</p> <p>33</p> <p>34 continued</p> <p>35</p>	<p>1 I N D E X</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 Title Page 1</p> <p>5 Appearances 2</p> <p>6 Index 4</p> <p>7 Proceedings Begun 6</p> <p>8 SHERI GIPSON</p> <p>9 EXAMINATION BY MS. SILHAN 7</p> <p>10 EXAMINATION BY MS. MARZIANI 287</p> <p>11 EXAMINATION BY MS. MACKIN 294</p> <p>12 FURTHER EXAMINATION BY MS. SILHAN 306</p> <p>13 Deposition Suspended 310</p> <p>14 Changes and Signature 311</p> <p>15 Court Reporter's Certificate 313</p> <p>16 * * * * *</p> <p>17 EXHIBITS</p> <p>18 NO. DESCRIPTION PAGE</p> <p>19 1 Notice of Deposition 9</p> <p>20 2 Screenshot -- Driver License Renewal and 65</p> <p>21 Change of Address</p> <p>22 3 DLS Use Case Specification: Create Daily 152</p> <p>23 Update Log for SOS -- December 22, 2014</p> <p>24 4 Letter from Joe Peters to Keith Ingram Re: 174</p> <p>25 NVRA Implementation Plan -- July 22, 2016</p> <p>continued</p>
Page 3	Page 5
<p>1 APPEARANCES</p> <p>2 continued</p> <p>3</p> <p>4 FOR DEFENDANT TEXAS DEPARTMENT OF PUBLIC SAFETY</p> <p>5 MS. KATHLEEN THERESA MURPHY</p> <p>6 SBOT No. 00789507</p> <p>7 kathleen.murphy@dps.texas.gov</p> <p>8 TEXAS DEPARTMENT OF PUBLIC SAFETY</p> <p>9 5805 North Lamar Boulevard,</p> <p>10 Suite 4087</p> <p>11 Austin, Texas 78752</p> <p>12 Phone: (512) 424-2420</p> <p>13 Fax: (512) 424-2251</p> <p>14</p> <p>15 ALSO PRESENT:</p> <p>16 JUSTIN TALBOT, Videographer</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 EXHIBITS</p> <p>2 continued</p> <p>3 NO. DESCRIPTION PAGE</p> <p>4 5 Letter from Joe Peters to Keith Ingram Re: 176</p> <p>5 NVRA Implementation Plan -- August 3, 2016</p> <p>6 6 Texas DPS NVRA Implementation Plan 179</p> <p>7 7 Email from Susan Stempelmann Re: Customer 192</p> <p>8 Operations Conference Call Notes -- October 19, 2012</p> <p>9 8 Email Chain Re: Elections Follow-up 201</p> <p>10 9 Email Chain Re: Voters registration 205</p> <p>11 10 Email from Marguerite Buster Re: Voter 209</p> <p>12 registration verification - 2-4-13.doc -- 2/4/2013</p> <p>13 11 Metadata 211</p> <p>14 12 D_00011099 211</p> <p>15 13 Email Chain Re: Other DL 219</p> <p>16 14 DPS Government Relations Action Sheet 224</p> <p>17 15 DPS Overview 246</p> <p>18 16 Application for Change of Address on Valid 259</p> <p>19 Texas Driver License (DL) &amp; Identification Card (ID)</p> <p>20 17 The National Voter Registration Act and 269</p> <p>21 Voter Registration Applications . . . an Overview -- 6/12/13</p> <p>22 18 Letter from Peter A. Kraus and Mimi M. D. 285</p> <p>23 Marziani to Secretary of State Cascos Re: Failure to Comply with Voter Registration Obligations at Texas Department of Public Safety -- May 27, 2015</p> <p>24 * * * * *</p> <p>25</p>



STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 6</p> <p>1 (9:44 a.m.)</p> <p>2 THE VIDEOGRAPHER: Today is Tuesday,</p> <p>3 January 31st, 2017. Time is approximately 9:45 a.m.</p> <p>4 We are at the Texas Attorney General's Office, 300 West</p> <p>5 15th Street, Austin, Texas 78701.</p> <p>6 My name is Justin Talbot, video specialist</p> <p>7 at Legal Eyes, Incorporated, out of Aubrey, Texas.</p> <p>8 This case, Cause Number</p> <p>9 5:16-cv-00257-0- -- OLG. Excuse me. Entitled</p> <p>10 Jarold [sic] Stringer, et al -- Jarrod Stringer, et al,</p> <p>11 vs. Rolando B. Pablos, et al. The deponent is Sheri</p> <p>12 Gipson. This video deposition was requested by the</p> <p>13 Plaintiffs' counsel, Waters Kraus &amp; Paul.</p> <p>14 Counsel and all present please identify</p> <p>15 yourselves for the record.</p> <p>16 MS. SILHAN: Caitlyn Silhan on behalf of</p> <p>17 the Plaintiff, Jarrod Stringer.</p> <p>18 MS. MARZIANI: Mimi Marziani on behalf of</p> <p>19 Plaintiff Totysa Watkins.</p> <p>20 MS. CHAMPION: Cassandra Champion, counsel</p> <p>21 for the Plaintiff on behalf of Totysa Watkins.</p> <p>22 MS. MURPHY: Kathleen Murphy, Senior</p> <p>23 General Counsel, DPS.</p> <p>24 MS. MACKIN: Anne Marie Mackin with the</p> <p>25 Attorney General's Office on behalf of all Defendants.</p>	<p style="text-align: right;">Page 8</p> <p>1 A. Oh, goodness. 2014. '13.</p> <p>2 Q. Was that in connection with your employment at</p> <p>3 the Department of --</p> <p>4 A. Y- --</p> <p>5 Q. -- Public Safety?</p> <p>6 A. Yes, ma'am, it was.</p> <p>7 Q. Okay. Was that -- well, can you tell me the</p> <p>8 name of the case in which --</p> <p>9 A. I --</p> <p>10 Q. -- you were deposed?</p> <p>11 A. -- I -- I can't remember the name of the case,</p> <p>12 but it was over vy- -- voter identification.</p> <p>13 Q. Okay. Did you provide any other testimony in</p> <p>14 that case? Any trial testimony?</p> <p>15 A. No, ma'am.</p> <p>16 Q. Okay. Okay. So you've already gone through</p> <p>17 this before, but I'll maybe give you a little refresher</p> <p>18 on some of the rules.</p> <p>19 Only one of us can talk at a time. And so</p> <p>20 I'll do my best to let you finish your answer, and if</p> <p>21 you would m- -- wouldn't mind letting me finish my</p> <p>22 question before you begin responding, that will help the</p> <p>23 court reporter and our transcript.</p> <p>24 And if you would please give verbal</p> <p>25 responses. Don't shake your head yes or no; no "uh-uh"</p>
<p style="text-align: right;">Page 7</p> <p>1 THE VIDEOGRAPHER: Thank you.</p> <p>2 Will you please swear the witness.</p> <p>3 THE COURT REPORTER: Will you raise your</p> <p>4 right hand?</p> <p>5 Do you swear or affirm that the testimony</p> <p>6 you're about to give will be the truth, the whole truth,</p> <p>7 and nothing but the truth?</p> <p>8 THE WITNESS: I do.</p> <p>9 THE COURT REPORTER: Thank you.</p> <p>10 SHERI GIPSON,</p> <p>11 having been called as a witness herein, having been</p> <p>12 first duly sworn, was examined and testified as follows:</p> <p>13 EXAMINATION</p> <p>14 BY MS. SILHAN:</p> <p>15 Q. Okay. Good morning.</p> <p>16 A. Morning.</p> <p>17 Q. Would you please state and spell your full name</p> <p>18 for the record?</p> <p>19 A. Sheri Lynne Gipson. S-H-E-R-I. L-Y-N-N-E.</p> <p>20 Gipson, G-I-P-S-O-N.</p> <p>21 Q. Have you ever been deposed before?</p> <p>22 A. Yes.</p> <p>23 Q. How many times?</p> <p>24 A. Once.</p> <p>25 Q. When was that?</p>	<p style="text-align: right;">Page 9</p> <p>1 or "uh-huh"; so that the record is clear. That would be</p> <p>2 great.</p> <p>3 If you don't understand a question, please</p> <p>4 just let me know. If you need me to re-ask it, let me</p> <p>5 know. I'd be happy to. And if you don't ask me to</p> <p>6 rephrase a question or you don't indicate that you don't</p> <p>7 understand it, I'll -- I'll go ahead and assume that you</p> <p>8 do.</p> <p>9 Does that work?</p> <p>10 A. Okay.</p> <p>11 Q. 'Kay. Okay. So you are here pursuant to a</p> <p>12 deposition notice served by the Plaintiffs in this case;</p> <p>13 is that correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Have you reviewed a copy of that deposition</p> <p>16 notice?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. 'Kay. I will . . . mark this as Exhibit 1.</p> <p>19 (Exhibit 1 marked for identification.)</p> <p>20 Q. Here you are.</p> <p>21 Is this the notice of deposition that</p> <p>22 you've received in this case?</p> <p>23 A. Yes, ma'am.</p> <p>24 Q. When did you receive this notice of deposition?</p> <p>25 A. I don't know the exact day.</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 134</p> <p>1 A. Mm-hmm.</p> <p>2 Q. Does it have information about any other CSR</p> <p>3 involved in the transaction?</p> <p>4 A. Right now it -- I believe it goes into the</p> <p>5 audit trails. But we can't see it . . . on the screens.</p> <p>6 Q. How many Driver License records are in DLS now,</p> <p>7 approximately?</p> <p>8 A. There is a total -- not a total. There's over</p> <p>9 26 million records, including driver license,</p> <p>10 identification cards, and unlicensed records.</p> <p>11 Q. Are those all associated with individuals? So</p> <p>12 there would be 26 million individuals?</p> <p>13 A. No. For the most part it is. But we still</p> <p>14 have some records from individuals -- the -- the -- the</p> <p>15 best way to describe this is before the Driver License</p> <p>16 System, our system was a card-driven. So you would</p> <p>17 have -- like, if you had a driver's license and an ID,</p> <p>18 you would have two separate records in the system.</p> <p>19 With Driver License System, we have what's</p> <p>20 called a person record.</p> <p>21 Q. Mm-hmm.</p> <p>22 A. So it joins those things together.</p> <p>23 But we have individuals who either updated</p> <p>24 a name or an address or somethin' on one card and not</p> <p>25 the other, so when the d- -- data was migrated, it</p>	<p style="text-align: right;">Page 136</p> <p>1 change-of-address and driver-license renewals on</p> <p>2 Texas.gov?</p> <p>3 A. That would have been prior to DLS.</p> <p>4 Q. Once DLS became operational, how did</p> <p>5 information collected on the online change-of-address</p> <p>6 and renewal form . . . get transmitted to DLS?</p> <p>7 A. So there is a nightly file that they transmit</p> <p>8 the data from those application- -- completed</p> <p>9 applications to DLS.</p> <p>10 Q. For those completed applications, we've already</p> <p>11 discussed that the answer to the voter-registration</p> <p>12 question, that is not included in that nightly file;</p> <p>13 correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Are there any other questions that applicants</p> <p>16 are required to answer on the online change-of-address</p> <p>17 or renewal form that is not transferred in the nightly</p> <p>18 file to DPS? I'm sorry. To -- to the DLS?</p> <p>19 A. No.</p> <p>20 Q. Why does DPS require customers to answer that</p> <p>21 question if they don't even retain the answer?</p> <p>22 A. The -- because we need to offer them the</p> <p>23 availability of the application. And so if they f- --</p> <p>24 in order for us -- for Texas.gov, the way that's</p> <p>25 programmed, is if they enter "yes," it presents the</p>
<p style="text-align: right;">Page 135</p> <p>1 does -- it did not combine those records. So we have</p> <p>2 some out there, you know. A- -- and there's -- there's</p> <p>3 no way for us to know an exact number. But it's not --</p> <p>4 you know, it's not, like, millions --</p> <p>5 Q. Okay.</p> <p>6 A. -- that are duplicate records.</p> <p>7 Q. Okay. But that would be the case if someone --</p> <p>8 A. Right.</p> <p>9 Q. -- had two different types --</p> <p>10 A. Right.</p> <p>11 Q. -- of -- of. . . .</p> <p>12 A. If they both -- if they had both an ID and a</p> <p>13 DL. Right.</p> <p>14 Q. Got it.</p> <p>15 A. And so when you're lookin' at just those,</p> <p>16 you're lookin' at about 22 million. We have about 4</p> <p>17 million of unlicensed records. And that's individuals</p> <p>18 where they didn't have a driver license or an ID and</p> <p>19 they got a ticket for DWI or somethin' like that, and we</p> <p>20 created an un- -- unlicensed record for them.</p> <p>21 Q. When DLS was rolled out starting in 2009, and</p> <p>22 going through the field offices through May of 2010, was</p> <p>23 that the same time that Texas.gov was rolled out?</p> <p>24 A. No. Texas.gov was in existence prior to that.</p> <p>25 Q. Was that when DLS started offering online</p>	<p style="text-align: right;">Page 137</p> <p>1 link; if they enter "no," it does not.</p> <p>2 Q. Why do they need to -- why does DPS need to</p> <p>3 offer or make available an application?</p> <p>4 A. Because it's part of an application process.</p> <p>5 So we're giving -- we're making that available to the</p> <p>6 customer so that they can update or get their</p> <p>7 voter-registration application submitted.</p> <p>8 Q. But -- but pursuant to what is that something</p> <p>9 that D -- DPS is required to do?</p> <p>10 MS. MACKIN: Objection: Form.</p> <p>11 THE WITNESS: Yeah, I'm not sure I</p> <p>12 understand. I mean --</p> <p>13 Q. (BY MS. SILHAN) So --</p> <p>14 A. -- it's -- it's part of -- i- -- it's</p> <p>15 considered an application, so we're -- are -- are making</p> <p>16 that customer -- we're providing that ability for them</p> <p>17 to submit that regis- -- that voter-registration</p> <p>18 application as part of that process.</p> <p>19 Q. Well, it's a separate -- so it's separate,</p> <p>20 though; right? So --</p> <p>21 A. It is separate.</p> <p>22 Q. Okay. But for other applications, like</p> <p>23 in-person applications, it's combined; it's not a</p> <p>24 separate process.</p> <p>25 MS. MACKIN: Objection: Form.</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 234</p> <p>1 certify that the information is true and correct?</p> <p>2 A. They're . . . well, the only thing that they're</p> <p>3 changing is their address. But they're -- they're</p> <p>4 verifying who they are through the authentication</p> <p>5 process that occurs up front by providing key pieces of</p> <p>6 data, which is their f- -- their name, the</p> <p>7 driver-license number, date of birth, the audit number</p> <p>8 that's on the card they currently hold, and the last</p> <p>9 four of their Social.</p> <p>10 (Brief pause.)</p> <p>11 Q. Aside from the physical ink signatures and the</p> <p>12 electronic keypad signatures, are there any other types</p> <p>13 of signatures DPS collects from customers?</p> <p>14 A. No, ma'am.</p> <p>15 Q. Does anyone compare the signatures collected by</p> <p>16 DPS?</p> <p>17 A. Compare. . . .</p> <p>18 Q. So a customer is going to be submitting to DPS,</p> <p>19 no matter what, two signatures; correct?</p> <p>20 A. Correct.</p> <p>21 Q. Even in the first application, they're</p> <p>22 submitting an ink signature physically on a piece of</p> <p>23 paper, as well as an electronic signature on a keypad.</p> <p>24 A. Correct.</p> <p>25 Q. Does anyone go through and compare those two?</p>	<p style="text-align: right;">Page 236</p> <p>1 was potential fraud, then they would -- they would</p> <p>2 request that information.</p> <p>3 Q. For signatures -- ink signatures on mail-in</p> <p>4 changes of address, for example, are those ever compared</p> <p>5 with either the f- -- previous physical signature or the</p> <p>6 electronic signature on file?</p> <p>7 A. Not on a routine basis, no.</p> <p>8 Q. Under what circumstance would they be compared?</p> <p>9 A. Again, only if somebody came in and said</p> <p>10 "Fraud." They wouldn't be as part of the application</p> <p>11 process.</p> <p>12 Q. Okay. But there wouldn't be another picture to</p> <p>13 do another facial recognition; right?</p> <p>14 A. No. Not at that point.</p> <p>15 Q. 'Kay. So when else -- what other circumstance</p> <p>16 for a mail-in form would -- would flag that form for</p> <p>17 signature comparison?</p> <p>18 A. There's not any.</p> <p>19 Q. Okay. So then the mail-in signatures are never</p> <p>20 compared.</p> <p>21 A. Typically no.</p> <p>22 Q. Okay. So I'm just . . . I'm just trying to</p> <p>23 understand. When you say --</p> <p>24 A. Yeah.</p> <p>25 Q. -- "typically no" --</p>
<p style="text-align: right;">Page 235</p> <p>1 A. Not typically, no.</p> <p>2 Q. Under what circumstance would they compare</p> <p>3 them?</p> <p>4 A. If there was somethin' that identified that</p> <p>5 there was potential fraud, or an issue that arose that</p> <p>6 was, you know, for potential fraud or identity theft,</p> <p>7 then we would have somebody pull and -- and analyze</p> <p>8 those signatures.</p> <p>9 Q. How are those issues flagged?</p> <p>10 A. What do you mean --</p> <p>11 Q. How --</p> <p>12 A. -- "how are they flagged"?</p> <p>13 Q. How does the system identify potential identity</p> <p>14 fraud or theft?</p> <p>15 A. So the system itself does not identif- -- or</p> <p>16 done -- identify fraud, per se. We do have an IVS</p> <p>17 system which does facial recognition on the original</p> <p>18 applicants. And so each morning we have individuals</p> <p>19 that review those files that come up as potential</p> <p>20 matches, and then they determine -- if there's potential</p> <p>21 fraud, if there is, then they refer it to our Criminal</p> <p>22 Investigations Division.</p> <p>23 The other way that it would be noted is if</p> <p>24 the Criminal Investigation Division or Highway Patrol,</p> <p>25 or another law enforcement agency, determined that there</p>	<p style="text-align: right;">Page 237</p> <p>1 A. Well --</p> <p>2 Q. -- why -- why can't you say "no"?</p> <p>3 A. So no. During the routine process, it would</p> <p>4 never be compared.</p> <p>5 Q. But. . . .</p> <p>6 A. When I say "routine process," what I'm talking</p> <p>7 about is the individual that's processing that mail</p> <p>8 renewal application, they would never compare that</p> <p>9 signature. If after the fact we received a contact from</p> <p>10 Criminal Investigations Division or another law en- --</p> <p>11 law-enforcement co- -- office contact CID, they may pull</p> <p>12 those signatures and look at 'em. But as a routine part</p> <p>13 of the function of updating mail and -- 'scuse</p> <p>14 me [coughed] -- mail-in address changes, we do not</p> <p>15 review the signatures.</p> <p>16 Q. How does DPS go about verifying the information</p> <p>17 submitted online for the online change of address or</p> <p>18 renewal form?</p> <p>19 A. Again, the only verification that's done there</p> <p>20 is their log-in credentials.</p> <p>21 Q. But those log-in credentials, is that</p> <p>22 information different than what would be entered on a</p> <p>23 physical mail-in change-of-address form?</p> <p>24 A. The difference is the Social Security Number.</p> <p>25 The last four digits of the Social Security. And</p>

STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 254</p> <p>1 actually refer to the -- electronic signature captured</p> <p>2 on the keypad?</p> <p>3 A. Yes, it does.</p> <p>4 Q. So DPS was never actually scanning physical ink</p> <p>5 signatures from paper and then transmitting them to</p> <p>6 SOS . . . during this time.</p> <p>7 A. No, we were not.</p> <p>8 (Brief pause.)</p> <p>9 Q. Looking at the next page. Page three of nine.</p> <p>10 Under the heading "May 15th, 2009," it says, "A report</p> <p>11 to categorize the following."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 MS. MACKIN: May 15th, 2009?</p> <p>15 MS. SILHAN: Yes.</p> <p>16 Q. (BY MS. SILHAN) And this report would</p> <p>17 categorize a number of things, including the number of</p> <p>18 DPS applications received? Correct?</p> <p>19 A. Mm-hmm.</p> <p>20 Q. The number of DPS applications approved as new</p> <p>21 voter. Number of DPS applications approved as change to</p> <p>22 existing voter.</p> <p>23 Are you familiar with whether these</p> <p>24 reports were created?</p> <p>25 A. No, I'm not.</p>	<p style="text-align: right;">Page 256</p> <p>1 isolated electronic files missing. Can you review that</p> <p>2 and -- and help me understand -- understand this?</p> <p>3 A. So it -- it -- it appears that there -- they</p> <p>4 identified an error with the file production; that it</p> <p>5 was not picking up all of the files. And so they</p> <p>6 notified IT, and they were working on the issues.</p> <p>7 So in other words, it would have been a --</p> <p>8 a code fix. Because somethin' was causing it to only</p> <p>9 pick up those that were identified as new. Because when</p> <p>10 they . . . do . . . when they select "yes," then there's</p> <p>11 a -- a secondary field that they enter whether it's a</p> <p>12 new or an update to existing. And it appears here that</p> <p>13 there was a file issue and it was not picking up the</p> <p>14 updates.</p> <p>15 Q. Okay.</p> <p>16 A. In the daily file.</p> <p>17 Q. And to be clear, two things. We're talking</p> <p>18 about the daily file sent to SOS with voter-registration</p> <p>19 information.</p> <p>20 A. Correct.</p> <p>21 Q. And when you say . . . update or new, you're</p> <p>22 referring to voter-registration applications.</p> <p>23 A. Correct.</p> <p>24 Q. And so you said that . . . aside from an answer</p> <p>25 to the voter-registration question, there's a second set</p>
<p style="text-align: right;">Page 255</p> <p>1 Q. Just under that it says, "A second report</p> <p>2 providing applicant/voter detail of the pending records</p> <p>3 should be developed. We have scoped an implementation</p> <p>4 time frame of January 1st, 2010."</p> <p>5 Are you familiar with this second report?</p> <p>6 A. No, I'm not.</p> <p>7 Q. Does it currently exist?</p> <p>8 A. I do not believe it does.</p> <p>9 Q. And just below that it says "May 27th, 2009,"</p> <p>10 and in parentheses it says "Email from Karen Richards."</p> <p>11 Who's Karen Richards?</p> <p>12 A. She was with the Secretary of State's Office.</p> <p>13 Q. 'Kay. And it says, "The Secretary of State's</p> <p>14 Office is currently working with DPS on several issues</p> <p>15 involving the deployment of the new DPS Digital</p> <p>16 Signature Application."</p> <p>17 What's that?</p> <p>18 A. The DPS Digital Signature Application is the</p> <p>19 new capture ability of the fingerprint, portrait, and</p> <p>20 signature. File. In the new format.</p> <p>21 Q. And that was deployed . . . in 2009?</p> <p>22 A. Correct.</p> <p>23 Q. And it's still used today?</p> <p>24 A. Correct.</p> <p>25 Q. The following sentence describes an issue with</p>	<p style="text-align: right;">Page 257</p> <p>1 of information that -- that says whether it's an update</p> <p>2 or a new?</p> <p>3 A. Mm-hmm.</p> <p>4 Q. Is that in DLS?</p> <p>5 A. It is within DLS. So it indicates -- when they</p> <p>6 check -- when you're within DLS, once they check "yes,"</p> <p>7 then they indicate whether it's a new or an update, and</p> <p>8 then the election-judge information comes up yes or no.</p> <p>9 So there's, I guess the best way to describe it, is</p> <p>10 subfields. So when you're looking at DLS, it doesn't</p> <p>11 say anything other than U.S. -- I mean "Photo</p> <p>12 registration: Yes or no." But within the application</p> <p>13 process, it asks the additional questions.</p> <p>14 So if the -- if the vote -- if the</p> <p>15 applicant indicated that they'd never registered to vote</p> <p>16 and it was an original, it would have been selected as</p> <p>17 "new." And then if they say "I'm already registered,</p> <p>18 but I'm changin' my address," then it would be sent as</p> <p>19 an update.</p> <p>20 Q. And that's something that's on the paper</p> <p>21 applications?</p> <p>22 A. At this point I would have to go back and look</p> <p>23 at it. I -- I don't feel comfortable saying yes or no.</p> <p>24 Q. Okay. Irrespective of whether it's something</p> <p>25 on the applications, that's something that's in DLS?</p>



STRINGER: SHERI GIPSON

<p style="text-align: right;">Page 310</p> <p>1 concludes the deposi- -- deposition of Sheri Gipson,  2 consisting of four video disks. We are off the record  3 at 6:00 [sic] p.m.  4 (Deposition suspended at 5:59 p.m.)  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>	<p style="text-align: right;">Page 312</p> <p>1 THE STATE OF _____)  2 COUNTY OF _____)  3  4 Before me, _____, on this day  5 personally appeared SHERI GIPSON, known to me or proved  6 to me on the oath of _____ or through  7 _____ [description of identity  8 card or other document] to be the person whose name is  9 subscribed to the foregoing instrument and acknowledged  10 to me that he/she executed the same for the purpose and  11 consideration therein expressed.  12 Given under my hand and seal of office this  13 _____ day of _____, _____.  14  15  16  17 NOTARY PUBLIC IN AND FOR  18 THE STATE OF _____  19 My Commission Expires: _____  20  21  22  23  24  25</p>																																																				
<p style="text-align: right;">Page 311</p> <table border="1"> <thead> <tr> <th>1</th> <th>CHANGES AND SIGNATURE</th> </tr> <tr> <th>2</th> <th>PAGE LINE CHANGE REASON</th> </tr> </thead> <tbody> <tr><td>3</td><td>_____</td></tr> <tr><td>4</td><td>_____</td></tr> <tr><td>5</td><td>_____</td></tr> <tr><td>6</td><td>_____</td></tr> <tr><td>7</td><td>_____</td></tr> <tr><td>8</td><td>_____</td></tr> <tr><td>9</td><td>_____</td></tr> <tr><td>10</td><td>_____</td></tr> <tr><td>11</td><td>_____</td></tr> <tr><td>12</td><td>_____</td></tr> <tr><td>13</td><td>_____</td></tr> <tr><td>14</td><td>_____</td></tr> <tr><td>15</td><td>_____</td></tr> <tr><td>16</td><td>_____</td></tr> <tr><td>17</td><td>_____</td></tr> <tr><td>18</td><td>_____</td></tr> <tr><td>19</td><td>_____</td></tr> <tr><td>20</td><td>_____</td></tr> <tr><td>21</td><td>I, SHERI GIPSON, have read the foregoing</td></tr> <tr><td>22</td><td>deposition and hereby affix my signature that same is</td></tr> <tr><td>23</td><td>true and correct, except as noted above.</td></tr> <tr><td>24</td><td>_____</td></tr> <tr><td>25</td><td>SHERI GIPSON</td></tr> <tr><td></td><td>SHERI GIPSON</td></tr> </tbody> </table>	1	CHANGES AND SIGNATURE	2	PAGE LINE CHANGE REASON	3	_____	4	_____	5	_____	6	_____	7	_____	8	_____	9	_____	10	_____	11	_____	12	_____	13	_____	14	_____	15	_____	16	_____	17	_____	18	_____	19	_____	20	_____	21	I, SHERI GIPSON, have read the foregoing	22	deposition and hereby affix my signature that same is	23	true and correct, except as noted above.	24	_____	25	SHERI GIPSON		SHERI GIPSON	<p style="text-align: right;">Page 313</p> <p>1 UNITED STATES DISTRICT COURT  2 WESTERN DISTRICT OF TEXAS  3 SAN ANTONIO DIVISION  4 JARROD STRINGER, et al., )  5 )  6 Plaintiffs, )  7 vs. ) C.A. 5:16-cv-00257-OLG  8 )  9 ROLANDO B. PABLOS, IN HIS )  10 OFFICIAL CAPACITY AS THE TEXAS )  11 SECRETARY OF STATE; AND STEVEN )  12 C. MCCRAW, IN HIS OFFICIAL )  13 CAPACITY AS THE DIRECTOR OF THE )  14 TEXAS DEPARTMENT OF PUBLIC )  15 SAFETY, )  16 )  17 Defendants. )  18 )  19 ORAL VIDEOTAPED DEPOSITION OF SHERI GIPSON  20 TUESDAY, JANUARY 31, 2017  21 I, RABIN' MONROE, Certified Shorthand Reporter  22 in and for the State of Texas, hereby certify to the  23 following:  24 That the witness, SHERI GIPSON, was duly sworn  25 by the officer and that the transcript of the deposition  is a true record of the testimony given by the witness;  That the deposition transcript was submitted  on _____, 2017, to the witness, or  to the attorney for the witness, for examination,  signature, and return to _____;  That \$_____ is the deposition  officer's charges to the Plaintiffs for preparing the  original deposition and any copies of exhibits;</p>
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STRINGER: SHERI GIPSON

Page 314

1 That pursuant to information given to the  
 2 deposition officer at the time said testimony was taken,  
 3 the following includes all parties of record, along with  
 4 the amount of time used by each party at the time of the  
 5 deposition:

6 MS. CAITLYN ELIZABETH SILHAN  
 Counsel for Plaintiffs

7 TIME USED: 6 Hours, 15 Minutes

8 MS. MIMI MURRAY DIGBY MARZIANI  
 Counsel for Plaintiffs

9 TIME USED: 6 Minutes

10 MS. ANNE MARIE "ANNA" MACKIN  
 Counsel for Defendants

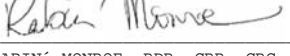
11 TIME USED: 17 Minutes

12 MS. KATHLEEN THERESA MURPHY  
 Counsel for Defendants

13 TIME USED: (No time used.)

14 I further certify that I am neither counsel  
 15 for, related to, nor employed by any of the parties in  
 16 the action in which this proceeding was taken, and  
 17 further, that I am not financially or otherwise  
 18 interested in the outcome of this action.

19 Certified to by me on FEBRUARY 12, 2017.

20   
 21 \_\_\_\_\_  
 22 RABIN' MONROE, RDR, CRR, CRC  
 Texas CSR# 9049  
 Expiration: December 31, 2018  
 23 HG LITIGATION  
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# EXHIBIT 12

STRINGER: JOHN CRAWFORD

Page 1

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,

§

Plaintiffs,

§

§

v.

§

Civil Action

§

No. 5:16-cv-00257-OLG

ROLANDO B. PABLOS, IN HIS  
OFFICIAL CAPACITY AS THE  
SECRETARY OF STATE and STEVEN  
C. McCRAW, IN HIS OFFICIAL  
CAPACITY AS THE DIRECTOR OF  
THE TEXAS DEPARTMENT OF PUBLIC  
SAFETY,

§

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§

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§

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§

§

Defendants.

§

**CERTIFIED  
TRANSCRIPT**

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ORAL AND VIDEOTAPED DEPOSITION OF  
JOHN CRAWFORD  
FEBRUARY 17, 2017  
VOLUME 1

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF JOHN CRAWFORD,  
produced as a witness at the instance of the Plaintiffs,  
and duly sworn, was taken in the above-styled and  
numbered cause on the 17th day of February, 2017, from  
10:06 a.m. to 4:35 p.m., before STEVEN STOGEL, CSR in  
and for the State of Texas, reported by machine  
shorthand, at the office of the Attorney General, 300  
West 15th Street, Suite 1100, Austin, Texas, pursuant to  
the Federal Rules of Civil Procedure and the provisions  
stated on the record or attached hereto.



## STRINGER: JOHN CRAWFORD

Page 2	Page 4
<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 MS. CASSANDRA CHAMPION</p> <p>5 MS. BETH STEVENS</p> <p>6 TEXAS CIVIL RIGHTS PROJECT</p> <p>7 1405 Montopolis Drive</p> <p>8 Austin, Texas 78741</p> <p>9 Phone: 512.474.5073</p> <p>10</p> <p>11 FOR THE DEFENDANTS:</p> <p>12 MS. ANNE MARIE MACKIN</p> <p>13 OFFICE OF THE ATTORNEY GENERAL</p> <p>14 General Litigation Division</p> <p>15 P.O. Box 12548, Capitol Station</p> <p>16 Austin, Texas 78711-2548</p> <p>17 Phone: 512.463.2120</p> <p>18</p> <p>19 FOR THE TEXAS DEPARTMENT OF PUBLIC SAFETY:</p> <p>20</p> <p>21 MS. KATHLEEN T. MURPHY-DARVEAU</p> <p>22 TEXAS DEPARTMENT OF PUBLIC SAFETY</p> <p>23 Senior Assistant General Counsel</p> <p>24 Office of General Counsel</p> <p>25 5805 N. Lamar Boulevard</p> <p>P.O. Box 4087</p> <p>Austin, Texas 78752</p> <p>Phone: 512.424.2420</p> <p>ALSO PRESENT:</p> <p>MR. ALEX STAMM</p> <p>MR. AARON HAGEL, Videographer</p>	<p>1 EXHIBITS</p> <p>2 EXHIBIT NAME DESCRIPTION PAGE</p> <p>3 Exhibit 8. Screenshot - Texas DPS - Driver 85</p> <p>4 License Renewal and Change of</p> <p>5 Address Page</p> <p>6 Exhibit 9. PowerPoint Entitled "The National 100</p> <p>7 Voter Registration Act and Voter</p> <p>8 Registration Applications ... an</p> <p>9 Overview"</p> <p>10</p> <p>11 Exhibit 10. 12/4/15 Email from Lauren Petty 107</p> <p>12</p> <p>13 Exhibit 11. 6/8/16 Email String 13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 I N D E X</p> <p>2</p> <p>3 Appearances..... PAGE</p> <p>4 2</p> <p>5 WITNESS: JOHN CRAWFORD</p> <p>6 Examination by Ms. Champion..... 6</p> <p>7 Examination by Ms. Stevens..... 126</p> <p>8 Reporter's Certificate..... 152</p> <p>9</p> <p>10 EXHIBITS</p> <p>11 EXHIBIT NAME DESCRIPTION PAGE</p> <p>12 Exhibit 1. Notice of Deposition 24</p> <p>13 Exhibit 2. 12/22/14 Texas DPS DLS - Use Case 54</p> <p>14 Specification: Create Daily Update</p> <p>15 File for SOS - Version 1.9</p> <p>16 Exhibit 3. 12/29/14 Texas DPS DLS - Use Case 54</p> <p>17 Specification: Create Voter</p> <p>18 Registration Extract File -</p> <p>19 Version 6.9</p> <p>20 Exhibit 4. DPS Overview 65</p> <p>21 Exhibit 5. Form DL-14A (Rev. 6/14) 70</p> <p>22 Application for Texas Driver</p> <p>23 License or Identification Card</p> <p>24 Exhibit 6. Form DL-64 (Rev. 3/16) 77</p> <p>25 Application for Change of Address</p> <p>on Valid Texas Driver License (DL)</p> <p>&amp; Identification Card (ID)</p> <p>Exhibit 7. Form DL-64 (Rev. 9/13) 77</p> <p>Application for Change of Address</p> <p>on Valid Texas Driver License (DL)</p> <p>&amp; Identification Card (ID)</p>	<p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: All right. This</p> <p>3 begins the videotaped deposition of Mr. John Crawford in</p> <p>4 the matter of Jarrod Stringer, et al., versus Rolando B.</p> <p>5 Pablos, in his official capacity as the Texas Secretary</p> <p>6 of State, and Steven C. McCraw, in his official capacity</p> <p>7 as the Director of the Texas Department of Public</p> <p>8 Safety, now pending in the United States District Court</p> <p>9 for the Western District of Texas, San Antonio Division,</p> <p>10 Civil Action No. 5:16-cv-00257-OLG.</p> <p>11 This deposition is being held at 300 West</p> <p>12 15th in Austin, Travis County, Texas. Today is Friday,</p> <p>13 February 17th, 2017. The time is now 10:06 a.m.</p> <p>14 My name is Aaron Hagel, your</p> <p>15 videographer, retained by Legal Eyes, Incorporated. Our</p> <p>16 court reporter is Steve Stogel.</p> <p>17 Would counsel and all parties present</p> <p>18 please introduce yourselves for the record, and then</p> <p>19 would the court reporter then swear in the witness?</p> <p>20 MS. CHAMPION: Yes. My name is Cassandra</p> <p>21 Champion. I'm here on behalf of the plaintiff, Jarrod</p> <p>22 Stringer.</p> <p>23 MS. STEVENS: Beth Stevens on behalf of</p> <p>24 Benjamin Hernandez.</p> <p>25 MR. STAMM: Alex Stamm here on behalf of</p>

STRINGER: JOHN CRAWFORD

<p style="text-align: right;">Page 6</p> <p>1 the plaintiff, Jarrod Stringer.</p> <p>2 MS. MURPHY: Kathleen Murphy, General</p> <p>3 Counsel's Office, Texas Department of Public Safety.</p> <p>4 MS. MACKIN: Anne Marie Mackin, Texas</p> <p>5 Attorney General's Office, here on behalf of all</p> <p>6 defendants.</p> <p>7 THE WITNESS: John Crawford, Texas</p> <p>8 Department of Public Safety.</p> <p>9 JOHN CRAWFORD,</p> <p>10 having been first duly sworn, testified as follows:</p> <p>11 EXAMINATION</p> <p>12 BY MS. CHAMPION:</p> <p>13 Q. Thank you. Mr. Crawford, could you state and</p> <p>14 spell your full name for the record, please?</p> <p>15 A. It's John William Crawford. J-O-H-N; William,</p> <p>16 W-I-L-L-I-A-M; and Crawford is C-R-A-W-F-O-R-D.</p> <p>17 Q. Thank you. Have you ever been deposed before?</p> <p>18 A. Yes, I have.</p> <p>19 Q. We will come back to that to learn a little</p> <p>20 bit more, but first, even though you've been deposed,</p> <p>21 I'll just give you a refresher of the rules, if you</p> <p>22 don't mind.</p> <p>23 So only one of us can talk at a time.</p> <p>24 That is for the benefit of the court reporter, to keep</p> <p>25 our record very clear. So I'll endeavor to let you</p>	<p style="text-align: right;">Page 8</p> <p>1 employed by the department. One had a case against the</p> <p>2 other, and one reported to me, and so I was deposed in</p> <p>3 that matter.</p> <p>4 Q. Do you remember when that was?</p> <p>5 A. I believe it was 2010.</p> <p>6 Q. Do you happen to know the name of the case?</p> <p>7 A. I don't. I'm sorry. I don't remember.</p> <p>8 Q. That's okay. How about the second time?</p> <p>9 A. The second time was the voter ID case, when I</p> <p>10 testified for the department.</p> <p>11 Q. And when was that?</p> <p>12 A. That was in 2014. I believe it was in the</p> <p>13 spring. I don't remember the exact month.</p> <p>14 Q. And when you say "department," do you mean the</p> <p>15 Department --</p> <p>16 A. Department of Public Safety, yes.</p> <p>17 Q. Did you testify for the Department of Public</p> <p>18 Safety in the first case as well?</p> <p>19 A. No. That was private -- a private matter.</p> <p>20 Q. Thank you. Are you currently employed by the</p> <p>21 Texas Department of Public Safety?</p> <p>22 A. Yes.</p> <p>23 Q. Can we call that DPS today?</p> <p>24 A. Yes.</p> <p>25 Q. What is your job title?</p>
<p style="text-align: right;">Page 7</p> <p>1 finish every answer if you will kindly let me finish</p> <p>2 every question.</p> <p>3 Can you please give verbal answers, such</p> <p>4 as "yes" and "no," rather than "uh-huh" or "huh-uh,"</p> <p>5 because those are harder to read?</p> <p>6 A. Yes.</p> <p>7 Q. And if you don't understand a question, will</p> <p>8 you let me know you don't understand, because if you do</p> <p>9 not let me know, then I will presume that you understood</p> <p>10 and that the answer was the answer you meant to give.</p> <p>11 Is that okay?</p> <p>12 A. Yes.</p> <p>13 Q. Are you currently sick or taking any</p> <p>14 medication today?</p> <p>15 A. No.</p> <p>16 Q. Is there any other reason your testimony today</p> <p>17 might be impaired?</p> <p>18 A. No.</p> <p>19 Q. Okay. Let's go back to the depositions you</p> <p>20 may have been involved with in the past. How many times</p> <p>21 have you been deposed?</p> <p>22 A. Two.</p> <p>23 Q. And for the first one, why -- what case or</p> <p>24 matter were you deposed for?</p> <p>25 A. It -- there were two contractors that were</p>	<p style="text-align: right;">Page 9</p> <p>1 A. I am manager of licensing services</p> <p>2 applications.</p> <p>3 Q. Is that in a particular division?</p> <p>4 A. It's in the information technology division.</p> <p>5 Q. And what do you do in that position?</p> <p>6 A. I'm responsible for a team of software</p> <p>7 developers who support the applications that are used by</p> <p>8 the driver license division and the regulatory services</p> <p>9 division of DPS.</p> <p>10 Q. How big is that team?</p> <p>11 A. I have 15 people.</p> <p>12 Q. And who do you report directly to?</p> <p>13 A. I report to Shannon Wallace, who is the</p> <p>14 interim assistant deputy director in -- for</p> <p>15 applications.</p> <p>16 Q. You said "interim." Was there someone that</p> <p>17 had that position before Shannon Wallace?</p> <p>18 A. Yes. The previous holder of the position was</p> <p>19 Bryan Lane, and he's now the chief information officer</p> <p>20 for the information technology division.</p> <p>21 Q. We'll go over the hierarchy a little bit in</p> <p>22 one moment, but how long have you held that position?</p> <p>23 A. Since December of 2012.</p> <p>24 Q. When did you first start working for DPS?</p> <p>25 A. In September 2008.</p>

STRINGER: JOHN CRAWFORD

<p style="text-align: right;">Page 70</p> <p>1 Exhibit 5?</p> <p>2 (Exhibit No. 5 marked)</p> <p>3 Q. (By Ms. Champion) This form, Exhibit 5, at</p> <p>4 the top says "Application for Texas Driver License or</p> <p>5 Identification Card." Is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. And it has many fields on the front page of</p> <p>8 the form. Would you agree?</p> <p>9 A. Yes.</p> <p>10 Q. Do each of these fields reflect a</p> <p>11 corresponding field within the DLS?</p> <p>12 A. Yes.</p> <p>13 Q. For Question 2, which reads, "If you are a</p> <p>14 U.S. citizen, would you like to register to vote? If</p> <p>15 registered, would you like to update your voter</p> <p>16 information?"</p> <p>17 Is there a field for that in DLS?</p> <p>18 A. Yes.</p> <p>19 Q. And what does it look like on your end? Does</p> <p>20 it have that exact language? Can you explain the field?</p> <p>21 A. It would have -- on the screen in the driver</p> <p>22 license application, it would have a tag that says</p> <p>23 "voter registration," and an entry would be "yes" or</p> <p>24 "no."</p> <p>25 So I don't believe that it has the entire</p>	<p style="text-align: right;">Page 72</p> <p>1 that had to occur when the change was made from the</p> <p>2 field not having to have an answer to the field now</p> <p>3 having to have an answer? So how was the hard stop</p> <p>4 created, I suppose?</p> <p>5 A. It would have followed the regular process of</p> <p>6 a formal request being entered and verified. But in --</p> <p>7 within the programming itself, the programmer -- the</p> <p>8 software developer controls how a cursor flows through</p> <p>9 fields on the screen. If you hit return, you can either</p> <p>10 bypass a field or not, and you make a software change</p> <p>11 that doesn't allow that cursor to pass a field until you</p> <p>12 have entered one of the valid values in that field.</p> <p>13 So if it's -- a valid value's not</p> <p>14 entered, you can't go any farther. So that's what "hard</p> <p>15 stop" means. It forces you to make a valid entry before</p> <p>16 you can go to the next piece of information.</p> <p>17 Q. And so when the decision was made to implement</p> <p>18 this hard stop, who would have given that assignment?</p> <p>19 A. Who would have given the assignment to</p> <p>20 actually do the code?</p> <p>21 Q. Yes.</p> <p>22 A. My lead, Jeff Peschka, would have assigned the</p> <p>23 person to do the actual coding itself. The request</p> <p>24 would have come from the driver license division, then</p> <p>25 we would have -- we would have assigned the tasks based</p>
<p style="text-align: right;">Page 71</p> <p>1 question on the driver license screen. There are many</p> <p>2 screens, so I'd have to go look at it specifically, but</p> <p>3 I don't believe the full question is there.</p> <p>4 Q. Can that field be left blank?</p> <p>5 A. No.</p> <p>6 Q. Can the -- can there be both a "yes" and a</p> <p>7 "no" entry simultaneously?</p> <p>8 A. No.</p> <p>9 Q. Are you familiar with the term "hard stop"?</p> <p>10 A. Yes.</p> <p>11 Q. Does that mean that that field has to be</p> <p>12 filled out before another field can be filled out?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know if it was always the case that</p> <p>15 that field had to be filled out for the No. 2 voter</p> <p>16 registration question?</p> <p>17 A. It was not.</p> <p>18 Q. And when did that change?</p> <p>19 A. I -- I don't recall the exact date. I'd have</p> <p>20 to look at records to find out. It's -- it was not part</p> <p>21 of the original driver license application. The change</p> <p>22 was made at a later date.</p> <p>23 Q. Were you part of making that change?</p> <p>24 A. My team would have been, yes.</p> <p>25 Q. What was the process -- the technical process</p>	<p style="text-align: right;">Page 73</p> <p>1 on their prioritizations. Ultimately it's my</p> <p>2 responsibility for work assignment.</p> <p>3 Q. Do you know who at the driver's license</p> <p>4 division would have made the request?</p> <p>5 A. I don't know who made that request, no.</p> <p>6 Q. Do you look how we can find out?</p> <p>7 A. It would be in the JIRA ticket.</p> <p>8 Q. We talked about all of the information from</p> <p>9 Exhibit 5 being input into DLS. Do you know if every</p> <p>10 form that a customer fills out in person at a DPS office</p> <p>11 is the same in that it would have multiple fields that</p> <p>12 would all go into -- into the DLS?</p> <p>13 A. I'm not familiar with every form that would be</p> <p>14 available in a driver license office, and I can't -- I</p> <p>15 couldn't confirm for certain that every one would be</p> <p>16 included.</p> <p>17 Q. Does the DLS only store electronic signatures?</p> <p>18 A. Yes.</p> <p>19 Q. But there --</p> <p>20 A. Well, I'm not sure what -- could you -- could</p> <p>21 you clarify that a little bit, please?</p> <p>22 Q. Sure. Does the DLS only store signatures</p> <p>23 which are input using the keypad?</p> <p>24 A. The DLS database itself, yes, it only stores</p> <p>25 signatures that are collected on those electronic pads.</p>

STRINGER: JOHN CRAWFORD

<p style="text-align: right;">Page 74</p> <p>1 Q. Would there ever be a situation where there's 2 a file within DLS that is an image of a scanned 3 signature?</p> <p>4 A. Customer service representatives do scan 5 documents that have physical signatures. Those are 6 stored by a vendor. They're not stored in the driver 7 license database.</p> <p>8 Q. What vendor is that?</p> <p>9 A. It's a company called CBM Archive.</p> <p>10 Q. So images of scanned documents, including 11 signatures, are they kept within DLS? Are they stored 12 within DLS?</p> <p>13 A. No. They're stored by CBM Archive in their 14 environment.</p> <p>15 Q. I think you've used the phrase "in their 16 environment" to refer to not only CBM but also DPS. Can 17 you explain what that means?</p> <p>18 A. CBM Archive has their own computer equipment, 19 and that's where this information is stored, on their 20 computer equipment.</p> <p>21 Q. Is that what you mean by "the environment"?</p> <p>22 A. Yes.</p> <p>23 Q. Can a DPS employee look up a scanned document 24 in DLS?</p> <p>25 A. They can look up a scanned document through</p>	<p style="text-align: right;">Page 76</p> <p>1 Q (By Ms. Champion) When you look at a file in 2 DLS, can you tell when a signature file has been 3 created?</p> <p>4 A. Yes.</p> <p>5 Q. How can you tell?</p> <p>6 A. It'll have a date and time stamp associated 7 with that record.</p> <p>8 Q. Can you see a history for each time a 9 signature file has been changed?</p> <p>10 A. Yes. A signature file is not changed. A new 11 signature would be captured. So we would -- we would 12 have the old signature -- the previous signature, but 13 you don't change a signature. You capture a new 14 signature.</p> <p>15 Q. What would happen to the old signature?</p> <p>16 A. It remains on file.</p> <p>17 Q. So would a person record then have multiple 18 signatures associated with that file?</p> <p>19 A. It could, yes.</p> <p>20 Q. Are signature files ever removed from DLS?</p> <p>21 A. No.</p> <p>22 Q. What is the DPS digital signature application?</p> <p>23 A. I'm not familiar with that term.</p> <p>24 Q. Okay. So when a customer service 25 representative is using DLS, could that employee compare</p>
<p style="text-align: right;">Page 75</p> <p>1 the DLS application. They're looking at it in the 2 CBM Archive database.</p> <p>3 Q. So does a CBM system then have to somehow 4 communicate with DLS?</p> <p>5 A. Yes. The DLS application knows for a 6 particular customer that scanned documents are stored, 7 and an authorized driver license person can look at 8 those documents.</p> <p>9 Q. Does DPS have any signature recognition 10 software?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Each time a customer comes into a DPS office 13 to complete a transaction, is a record in DLS updated 14 every time?</p> <p>15 A. Yes. If the customer actually executes a 16 transaction, yes.</p> <p>17 Q. Is a new signature file created each time a 18 customer completes a transaction?</p> <p>19 A. That's really a business question. I don't 20 know what their process -- I don't know what the 21 business process is for requiring a signature.</p> <p>22 THE REPORTER: Did you say requiring or 23 acquiring?</p> <p>24 THE WITNESS: Requiring.</p> <p>25 THE REPORTER: Thank you.</p>	<p style="text-align: right;">Page 77</p> <p>1 two signatures? Could they pull them both up on the 2 system at the same time?</p> <p>3 A. I don't know if a customer service 4 representative has that level of authority. That would 5 be a business authorization.</p> <p>6 Q. If a person record has more than one signature 7 associated with that record, which signature would be 8 batched and sent to the Secretary of State with the 9 voter extract --</p> <p>10 A. The most --</p> <p>11 Q. -- file?</p> <p>12 A. The most recently captured one.</p> <p>13 Q. And the system knows which one to send based 14 on the time and date stamp associated with each 15 signature?</p> <p>16 A. Yes.</p> <p>17 Q. I'm going to hand over two documents. One 18 will be Exhibit 6 and one will be Exhibit 7. 19 (Exhibit Nos. 6 and 7 marked)</p> <p>20 Q. (By Ms. Champion) Okay. Looking at 21 Exhibit 6, the top it says "Application for Change of 22 Address on Valid Texas Driver's License (DL) &amp; 23 Identification Card (ID)."</p> <p>24 Do each of these fields get filled out 25 when a form like this is mailed in to DPS?</p>



STRINGER: JOHN CRAWFORD

<p style="text-align: right;">Page 138</p> <p>1 sent to the Secretary of State that night with the voter 2 registration batch. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. And with the renewal and the change of 5 address, the electronic signature's also going to the 6 Secretary of State?</p> <p>7 A. Yes.</p> <p>8 Q. And I think you answered this with 9 Ms. Champion, but if someone's provided multiple 10 electronic signatures, it's the most recent signature 11 that goes with the batch. Is that right?</p> <p>12 A. Yes, that's correct.</p> <p>13 Q. And the second batch -- the kind of catchall 14 batch in my mind -- that doesn't have any signatures. 15 Is that correct?</p> <p>16 A. I don't recall. It does not.</p> <p>17 Q. Would you turn to Page 4 on the Batch 2 case 18 use, the non-voter registration one?</p> <p>19 A. The daily update?</p> <p>20 Q. Yes, sir. Page 4 at the top that has 1.1.6.2.</p> <p>21 A. Yes.</p> <p>22 Q. And then in parentheses, it has A-2, and it 23 says, "Purge status."</p> <p>24 A. Yes.</p> <p>25 Q. Can you explain that a little bit more to me?</p>	<p style="text-align: right;">Page 140</p> <p>1 in to DPS to update or renew, the information that gets 2 captured in DLS -- if the voter registration question 3 is, in fact, asked and captured in DLS, that information 4 would also go to Secretary of State at the same time 5 during that batch?</p> <p>6 A. That's correct.</p> <p>7 Q. And if they answered "yes" to that question 8 and it goes to the Secretary of State, their previously 9 provided electronic signature is what would be sent to 10 the Secretary of State as well?</p> <p>11 A. Yes.</p> <p>12 Q. So I'll turn your attention to the online 13 transaction with Texas.gov and the interaction with DLS. 14 Okay?</p> <p>15 A. Okay.</p> <p>16 Q. When DLS receives the information from 17 Texas.gov, the DLS system can tell, can it not, whether 18 it is a renewal or a change of address?</p> <p>19 A. Yes.</p> <p>20 Q. Thank you. And do I have it right that you 21 can't go get a new driver's license online? Is that 22 correct?</p> <p>23 A. An initial driver license, that is correct.</p> <p>24 Q. Right. So if I just turned -- how old do you 25 have to be to drive -- 16, 17 -- I can't have my first</p>
<p style="text-align: right;">Page 139</p> <p>1 What -- what is purge status?</p> <p>2 A. I'm sorry. I don't know. I would have to -- 3 I'd have to research that. I don't know what that 4 designator is.</p> <p>5 Q. Is it fair to say that somebody on your team, 6 the people that you manage, would be able to answer that 7 question?</p> <p>8 A. Either someone from my team or someone from 9 the business would be able to answer that question, yes.</p> <p>10 Q. I'm going to turn your attention back to the 11 mail-in change of address, the current one -- so I think 12 that's Exhibit 6.</p> <p>13 With regard to the batch that's sent to 14 the Secretary of State at night for the voter 15 registration, if the person answers "yes" on their 16 change of address that's mailed in and that's input into 17 DLS, it's the electronic signature that was previously 18 provided the last time that person went in person. 19 That's the signature that goes to the Secretary of 20 State. Is that right?</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. There's not -- I've not a scan of the 23 signature that is required on Exhibit 6?</p> <p>24 A. It is not. That's correct.</p> <p>25 Q. Okay. The information -- when someone calls</p>	<p style="text-align: right;">Page 141</p> <p>1 interaction with DPS be online. I have to go in person?</p> <p>2 A. That is correct. You must go into an office.</p> <p>3 Q. Okay. And, likewise, I can't do it via the 4 mail for the first time either?</p> <p>5 A. That's also correct, right. Mail is only 6 renewals or change of address.</p> <p>7 Q. Okay. I think you addressed this with 8 Ms. Champion, but I just want to make sure I understand. 9 The information that is transferred from Texas.gov to 10 DLS, the sort of fields that come out of Texas.gov, the 11 website, and get projected out to DLS or whatever the 12 mechanism is, that would be a case use -- a use case 13 from Texas.gov. Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. That would dictate what gets sent to DLS?</p> <p>16 A. What -- yes, that's correct.</p> <p>17 Q. Okay. And currently we know at the very least 18 the updated address information does get sent to DLS. 19 Is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And we know that the two -- well, first of 22 all, the question about "Do you want to donate a dollar 23 to this charity?" that question and answer gets sent to 24 you. Correct?</p> <p>25 A. Yes, it does.</p>

STRINGER: JOHN CRAWFORD

<p style="text-align: right;">Page 142</p> <p>1 Q. To DLS?</p> <p>2 A. Yes.</p> <p>3 Q. And the answer to the question "Do you want to</p> <p>4 be an organ donor?" that question gets sent to DLS?</p> <p>5 A. Yes, that's correct.</p> <p>6 Q. Okay. And DLS is fully capable of receiving</p> <p>7 the answer to the question do you want to register to</p> <p>8 vote -- capable of receiving it from Texas.gov. Is that</p> <p>9 correct?</p> <p>10 A. Not currently.</p> <p>11 Q. It's programmable such that DLS could receive</p> <p>12 the answer to the question do you want to register to</p> <p>13 vote from Texas.gov?</p> <p>14 A. Yes.</p> <p>15 Q. And like you pointed out with Ms. Champion,</p> <p>16 that data field already exists, do you want to register</p> <p>17 to vote. Is that correct?</p> <p>18 A. There is a data field that exists, yes.</p> <p>19 Q. So the program would need to be rewritten such</p> <p>20 that the information from Texas.gov changes the answer</p> <p>21 to that question within DLS. Is that right?</p> <p>22 A. I can't tell you exactly how the process would</p> <p>23 work without analysis.</p> <p>24 Q. Okay.</p> <p>25 A. That would require analysis in a use case to</p>	<p style="text-align: right;">Page 144</p> <p>1 said -- you needed to do the analysis and see how</p> <p>2 exactly it would need to communicate with Texas.gov to</p> <p>3 start tracking the answer "yes" or "no," "Do you want to</p> <p>4 register to vote?" -- hypothetically, they've done that</p> <p>5 and the answer is "yes." Okay?</p> <p>6 A. Okay.</p> <p>7 Q. Okay? Are you with me so far?</p> <p>8 A. Okay.</p> <p>9 Q. Okay. DLS is also capable of sending that</p> <p>10 information on to the Secretary of State's Office.</p> <p>11 Correct?</p> <p>12 MS. MACKIN: Objection; form. You can</p> <p>13 answer.</p> <p>14 A. Technically, yes.</p> <p>15 Q. (By Ms. Stevens) It's capable of doing it?</p> <p>16 A. From an IT perspective, yes.</p> <p>17 Q. Okay. And if it were to do that, it could</p> <p>18 also send the previously provided electronic signature</p> <p>19 from that customer, just like it does with a mail-in</p> <p>20 change of address.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And I just want to go back to -- you</p> <p>23 said technically it can do what I just asked you two</p> <p>24 questions ago. Are you hesitating because someone needs</p> <p>25 to actually have you put that in place in the system?</p>
<p style="text-align: right;">Page 143</p> <p>1 determine if that was the right process.</p> <p>2 Q. Have you ever done that analysis?</p> <p>3 A. No.</p> <p>4 Q. Would you have to get that request from</p> <p>5 someone with DLD to do that analysis?</p> <p>6 A. Yes.</p> <p>7 Q. And DLD is the driver's license department.</p> <p>8 Correct?</p> <p>9 A. Driver license division.</p> <p>10 Q. Division.</p> <p>11 A. Yes.</p> <p>12 Q. Excuse me. Thank you. Just to clarify, the</p> <p>13 system, DLS itself, is capable of having the</p> <p>14 information -- of obtaining the information should</p> <p>15 Texas.gov send it to you. Is that fair?</p> <p>16 A. Yes.</p> <p>17 Q. Do I have it right that if someone goes online</p> <p>18 to either change their address or, within a renewal,</p> <p>19 they do something to change -- change their address,</p> <p>20 change their name, something like that -- that</p> <p>21 information all is going from DLS, once they receive</p> <p>22 it -- once it receives it -- to the Secretary of State</p> <p>23 in that second batch we've been talking about?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. So, hypothetically, if DLS did what you</p>	<p style="text-align: right;">Page 145</p> <p>1 A. Someone has to -- yeah, the driver license</p> <p>2 division would have to request it, and there's a process</p> <p>3 to go through. It has to be legal, for example.</p> <p>4 Their -- their request must come from the driver license</p> <p>5 division, and we're -- we don't work on things unless</p> <p>6 that request comes from the driver license division.</p> <p>7 Q. Sure. That makes -- someone needs to put a</p> <p>8 ticket into JIRA and then do the whole analysis, like</p> <p>9 you explained earlier?</p> <p>10 A. That's right.</p> <p>11 Q. Okay.</p> <p>12 A. That's right.</p> <p>13 Q. If Texas.gov implemented a system by which it</p> <p>14 captured an electronic signature -- aside from the</p> <p>15 electronic pad signature that someone gives in person.</p> <p>16 Okay? Does this make sense --</p> <p>17 A. Okay.</p> <p>18 Q. -- so far?</p> <p>19 A. Okay.</p> <p>20 Q. Okay. So Texas.gov in this hypothetical</p> <p>21 captures an electronic signature that someone provides</p> <p>22 to it online. Is DLS capable of holding that</p> <p>23 information should Texas.gov send it?</p> <p>24 A. It would depend on how it's captured and what</p> <p>25 the format is, so not necessarily.</p>


APPENDIX 91

STRINGER: JOHN CRAWFORD

Page 154

1 I further certify that I am neither counsel for,  
2 related to, nor employed by any of the parties or  
3 attorneys to the action in which this testimony was  
4 taken, and further that I am not financially or  
5 otherwise interested in the outcome of this action.

6 Certified to by me this the 23rd day of  
7 February, 2017.

8  
9  
10   
11 Steven Stogel  
12 CSR 6174  
13 Expiration Date: December 31, 2018  
14 HG Litigation Services  
15 Firm No. 69  
16 2777 N. Stemmons Freeway, Suite 1025  
17 Dallas, Texas 75207  
18 1-888-656-DEPO  
19  
20  
21  
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# EXHIBIT 13

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, ET AL,  
*Plaintiffs,*

V.

CARLOS H. CASCOS, IN HIS OFFICIAL CAPACITY  
AS THE TEXAS SECRETARY OF STATE AND  
STEVEN C. MCCRAW, IN HIS OFFICIAL CAPACITY  
AS THE DIRECTOR OF THE TEXAS DEPARTMENT OF  
PUBLIC SAFETY,  
*Defendants.*

§ § § § § § § § § §

No. 5:16-cv-00257

**DEFENDANT CARLOS H. CASCOS' FIRST SUPPLEMENTAL RESPONSES  
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

TO: Plaintiffs Jarrod Stringer, Benjamin Hernandez, Totysa Watkins, and John Woods  
through their attorney of record, by and through their attorney of record, Caitlyn Silhan, WATERS  
& KRAUS, LLP, 3141 Hood Street, Suite 700, Dallas, Texas 75219.

**Dated: January 20, 2017.**

Respectfully submitted,

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Attorney General of Texas

JEFFREY C. MATEER  
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BRANTLEY STARR  
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/s/Anne Marie Mackin  
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ATTORNEYS FOR DEFENDANTS

### **RESPONSES TO JARROD STRINGER'S REQUESTS FOR ADMISSIONS**

Request No. 1: Admit that as Secretary of State, Defendant Carlos H. Cascos serves as Texas' Chief Election Officer.

Response: Admits that, under Texas Election Code §31.001(a), the Secretary of State serves as the State's Chief Election Officer, but note that Rolando B. Pablos has succeeded Carlos H. Cascos as Texas's Secretary of State.

Request No. 2: Admit that Mr. Cascos is responsible for ensuring Texas' compliance with the National Voter Registration Act ("NVRA").

Response: Denies.

Request No. 3: Admit that during a transaction on the DPS website in August or September 2014, Mr. Stringer updated his driver's license address online.

Response: Denies that this transaction took place on the DPS website. In all other respects, admits.

Request No. 4: Admit that when Mr. Stringer updated his driver's license address online in August or September 2014, he checked "yes" in response to the statement, "I want to register to vote."

Response: After making a reasonable inquiry into this request, defendant lacks sufficient information to truthfully admit or deny it, because defendant does not maintain records of this information.

Request No. 5: Admit that when Mr. Stringer attempted to vote early in the 2014 general election, his name was not on the rolls in Bexar County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny, because Defendant does not have access to Bexar County's 2014 rolls. Defendant maintains a statewide voter registration list.

Request No. 6: Admit that Mr. Stringer called Bexar County elections officials in 2014 to inquire about his voter registration status.

Response: After making a reasonable inquiry into this request, defendant lacks sufficient information to truthfully admit or deny, because Defendant does maintain records of calls to Bexar County election officials inquiring about voter registration status.

Request No. 7: Admit that in the 2014 general election, Mr. Stringer could only vote a limited ballot with state-wide candidates because he was still registered at his address in Tarrant County.

Response: After making a reasonable inquiry into this request, Defendant states that Mr. Stringer has two addresses in the statewide voter registration system in Tarrant County (1) one with a start date of May 28, 2014, and an end date of May 12, 2015; and (2) one with a start date of October 22, 2009 and an end date of May 28, 2014. Mr. Stringer's voting history in the statewide voter registration database as to 2014 only indicates that he cast a regular ballot in Tarrant County on May 22, 2014; there is no voting history for him for the November 2014 election. Mr. Stringer has an address in Bexar County for his registration in Bexar County with an effective date of May 23, 2015 in the statewide voter registration database. Accordingly Defendant cannot admit or deny what type of ballot Mr. Stringer cast, if any, in November 2014; and, to the extent the request asks hypothetically what type of ballot he could cast, Defendant objects to the request as hypothetical and calling for a legal conclusion.

Request No. 8: Admit that, in order for an eligible voter who completes a valid driver's license transaction on the DPS website to register to vote or update voter registration information, , he or she must separately visit the Secretary of State's website and either: (a) print out the physical voter registration form, fill out the form, and mail or personally deliver the form to the appropriate county registrar before the voter registration deadline, or (b) request that a form be mailed, receive the form, fill out the form, and mail or personally deliver it to the appropriate county registrar before the voter registration deadline.

Response: Admits that an eligible voter who changes the address on her non-commercial Texas driver license online must submit a signed voter registration application in person or by mail in order for his voter registration information to be updated. The DPS and Texas.gov online interface links such voters to an application they may print out, sign, and mail, and also gives such voters the option to request that a voter registration application be mailed to them, postage paid, and contains language indicating that the separate form must be filled out in order to complete the voter's registration.. Denies to the extent the request indicates that the voter registration application must be mailed or personally delivered to the "appropriate county registrar" by the voter, and denies in all other respects.

Request No. 9: Admit that if a registered voter moves to a new address within the same county where he or she is already registered to vote, he or she can update the address on his or her driver's license online through the DPS website without a hard application or wet signature.

Response: Defendant objects that this request is hypothetical and calls for speculation.



Request No. 10: Admit that an eligible voter who moves within a Texas county can update his or her voter registration record on the Secretary of State's website.

Response: Admits that there is a link on VoteTexas.gov, under <http://www.votetexas.gov/faq/>, to a page where a voter can update his or her voter registration address within a county, <https://txapps.texas.gov/tolapp/sos/SOSACManager>.<sup>1</sup> Denies that any such update itself occurs on the SOS's web domains (i.e., [www.sos.state.tx.us](http://www.sos.state.tx.us) or [www.votetexas.gov](http://www.votetexas.gov)). Admits that on the Texas.gov website, <https://txapps.texas.gov/tolapp/sos/SOSACManager>, subject to the requirements listed on that page, an eligible voter who moves within a Texas county is able to update their address.<sup>2</sup>

Request No. 11: Admit that if a registered voter is moving to a new address within the same county where he or she is already registered to vote and changes his or her address online through the DPS website, the eligible voter cannot subsequently use the Secretary of State's website to update his or her address for voter registration purposes.

Response: Admits to the extent that it is not the Secretary of State's website on which an eligible voter updates his or her address for voter registration purposes within a county. In all other respects, denies.

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<sup>1</sup> The specific FAQ accessed via this link provides, among other things:

I am registered to vote, but I moved this past year. Is there anything I need to do to make sure that I won't have a problem voting in November?

If you moved within the same county where you are currently registered, you must file the new address information in writing with your voter registrar OR you may submit the "in county" change online. The last day to make a change of address that will be effective for the November 8, 2016 Election is October 11, 2016. If you missed this deadline, you may return to your old precinct to vote, if you still live in the political subdivision holding the election. If you moved within the county, you will have to go back to the precinct in which you are currently registered (your "old" precinct), and, at that location, you will be required to complete a "statement of residence" confirming your new address. This will act to update your registration information for the future. You will then be allowed to vote a regular ballot as long as you are otherwise eligible. If you moved to a "new county," you must re-register in your new county of residence by October 11, 2016, to be eligible to vote in the November 8, 2016 Election (unless you are eligible to vote a "limited ballot," see below).

#### Addresses and phone numbers of Voter Registrars

LIMITED BALLOT OPTION: If you have moved to a new county and have not re-registered in the new county by the October 11, 2016 deadline, you may be eligible to vote a limited ballot in your new county. A limited ballot means that you would be allowed to vote on any candidates and measures in common between your former and new county. This procedure is only available during the early voting period at the main early voting polling place; you may NOT vote a limited ballot on election day. You must be a current registered voter in your former county in order to qualify OR you must have been registered in your old county at the time you submitted a voter registration application in your new county, if you have done so. For full information on this procedure (including the by-mail option, if qualified to vote by mail), go to Special Forms of Early Voting (PDF). If you feel you qualify to vote a limited ballot, we recommend that you contact the office of the Early Voting Clerk in your new county.

<sup>2</sup> The page provides, among other things, "To use this service, you need your: Current Driver License or ID Card Social Security Number Voter Registration Card VUID (Voter Unique Identifier) Number may be obtained from your County Voter Registrar."

Request No. 12: Admit that when a registered voter updates his or her address through the DPS website as described above, DPS transmits the voter registration to the Secretary of State's office electronically, without a hard application or wet signature.

Response: Denies. Information voters submit to the DPS change of address online portal relating to voter registration is not transmitted to SOS.

Request No. 13: Admit that when the Secretary of State's office receives voter registration information transmitted from DPS, it transmits the information to the county where each prospective voter resides.

Response: Admits that information received from persons conducting in-person or by mail transactions with DPS is transmitted from SOS to the county voter registrar in the county in which the voter indicates their "residence address" is located.

Request No. 14: Admit that in 2013, the State created a web portal where county voter registrars can place information from voters who tell the county that they attempted to register to vote at DPS.

Response: Admits that, in 2013, SOS and DPS established a portal to allow counties to submit inquiries and verify if an individual has registered to vote through DPS, when a voter registrar is not able to locate a copy of the record. Denies that the portal is limited to "information from voters who tell the county that they attempted to register to vote at DPS," to the extent that the "county" is not a person.

Request No. 15: Admit that the information voter registrars place information into the web portal may include any information the voter provided about attempting to register to vote at DPS along with the other information the voter included on the provisional ballot envelope.

Response: Defendant objects that this request is hypothetical and calls for speculation, and is unintelligible.

Request No. 16: Admit that DPS will then research the information provided by the voter to determine whether the voter indicated their desire to register to vote and/or update their voter registration when registering with DPS in-person or by mail.

Response: Defendant objects that this request is hypothetical and calls for speculation.

Request No. 17: Admit that if the voter did indicate their desire to register to vote and/or update their voter registration when registering with DPS in-person or by mail, then the voter's registration is considered to be "submitted to the registrar" for purposes of Texas Election Code

Response: Defendant objects that this request is hypothetical and calls for speculation, and is unintelligible.

Request No. 18: Admit that if an eligible voter requested voter registration during an in-person transaction with DPS, but the record of his or her transaction was not transmitted by the DPS employee to SOS, the registration is nonetheless considered effective on the date that the eligible voter indicated to DPS he or she wanted to register to vote, whether in-person or by mail.

Response: Defendant objects that this request is hypothetical and calls for speculation.

Request No. 19: Admit that the date of submission of a change of address to a DPS employee in-person is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration.

Response: Defendant objects that this request is hypothetical and calls for speculation.

Request No. 20: Admit that the date of submission of a driver's license renewal application to a DPS employee in-person is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration.

Response: Defendant objects that this request is hypothetical and calls for speculation.

Request No. 21: Admit that the DPS web portal was created to allow the counties to submit inquiries and verify if an individual has registered to vote through DPS, when a voter registrar is not able to locate a copy of the record.

Response: Admits. *See* SOS Election Advisory No. 2015-08.

Request No. 22: Admit that at least since the web portal was implemented in 2013, SOS has kept records of each voter who has been submitted into the system, as well as the outcome of the investigation DPS conducts for each individual whose name has been run through the portal system.

Response: Admits that since the web portal was implemented in 2013, SOS has kept records of information entered into the web portal, which includes information entered by county personnel and DPS. Denies to the extent "records of each voter" includes information other than what was entered into the portal for "each voter".

Request No. 23: Admit that from May 27, 2015, when Plaintiffs sent their first notice letter to the State, to November 30, 2015 when Plaintiffs sent their last notice letter to the State, the parties engaged in negotiations and communications, resulting in the State agreeing to a number of reforms.

Response: Admits that counsel for Defendants met with counsel for Plaintiffs on July 20, 2015. Admits that counsel for Plaintiffs and counsel for Defendants exchanged several letters between May 27, 2015 and November 30, 2015. Admits that, in a good faith effort to work with Plaintiffs, Defendants made voluntary revisions to certain voter registration policies and procedures.

Request No. 24: Admit that the letter Plaintiffs sent to the State on November 30, 2015 summarized the reforms to the voter registration process the State agreed to implement.

Response: Denies.

Request No. 25: Admit that according to the Election Advisory issued by the Secretary of State's office on September 10, 2015, when a voter appears to vote but is not on the rolls, county election officials must: (a) offer that voter a provisional ballot; and (b) ask the voter whether he or she attempted to register at DPS and, if so, when.

Response: Defendant objects that this request is hypothetical and calls for speculation.

Request No. 26: Admit that after county election officials ask the two questions in the RFA above, officials must then use the DPS web portal to notify DPS representatives, who will review the voter's original file.

Response: While Defendant cannot say with absolute certainty what occurs in each particular factual scenario, Defendant admits that this request is true as a matter of general practice, as outlined in Election Advisory No. 2015-08, issued September 10, 2015.

Request No. 27: Admit that the outcome of the investigation can include the following results: (a) the voter marked both the "yes" and the "no" boxes and thus they were not registered to vote; (b) the voter did not mark either the "yes" or "no" box and thus they were not registered to vote; (c) the voter marked no that they did not want to register and thus they were not registered to vote; (d) the voter requested voter registration and the clerk at DPS did not transmit the information; (e) the voter updated their information online with DPS and did not complete the process to be registered to vote; (f) the DPS was unable to locate a record for that voter in their files.

Response: Defendant objects that this request is hypothetical and calls for speculation.

### **RESPONSE TO BENJAMIN HERNANDEZ'S REQUEST FOR ADMISSIONS**

Request No. 1: Admit that during a transaction on the DPS website in February 2013, Mr. Hernandez updated his driver's license address online.

Response: Denies.

Request No. 2: Admit that when Mr. Hernandez updated his driver's license address online in February 2013, he checked "yes" in response to the statement, "I want to register to vote."

Response: Denies

Request No. 3: Admit that when Mr. Hernandez attempted to vote on Election Day 2014, his name was not on the rolls in Dallas County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny, because Defendant does not have access to Dallas County's 2014 rolls.

Request No. 4: Admit that on Election Day 2014, Mr. Hernandez was still registered in Ector County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny, because Defendant does not have access to Ector County's 2014 rolls.

Request No. 5: Admit that on Election Day 2014, Mr. Hernandez cast a provisional ballot.

Response: After making a reasonable inquiry into this request, Defendant admits that Mr. Hernandez was registered to vote in Dallas County with an effective date of registration of December 4, 2014, date the application was submitted to the registrar of November 4, 2014, and the source code for the registration application was provisional ballot. Defendant notes however, that, there is no other voting history for Mr. Hernandez in the statewide voter registration system in 2014.

Request No. 6: Admit that the Secretary of State issued a notice to Mr. Hernandez that his vote on Election Day 2014 was not counted.

Response: Denies.

Request No. 7: Admit that if an applicant for a driver's license indicates he or she wants to register to vote and correctly completes a voter registration form, it is not the responsibility of DPS employees to confirm that the applicant meets all of the eligibility requirements to register to vote.

Response: Defendant objects that this request is hypothetical, calls for speculation, and calls for a legal conclusion, not an admission of fact or an application of law to fact.

Request No. 8: Admit that when a completed voter registration form is submitted to the Secretary of State, it is the responsibility of election officials to confirm that an applicant meets all of the eligibility requirements to vote.

Response: Defendant objects that this request is hypothetical, calls for speculation, and calls for a legal conclusion, not an admission of fact or an application of law to fact.

#### **RESPONSE TO TOTYSA WATKINS' REQUEST FOR ADMISSIONS**

Request No. 1: Admit that during a transaction on the DPS website in 2011, Ms. Watkins updated her driver's license address online.

Response: Denies.



Request No. 2: Admit that when Ms. Watkins updated her driver's license address online in 2011, she checked "yes" in response to the statement, "I want to register to vote."

Response: Denies.

Request No. 3: Admit that during a transaction on the DPS website in 2013, Ms. Watkins updated her driver's license address online.

Response: Denies that this transaction took place on the DPS website. In all other respects, admits.

Request No. 4: Admit that when Ms. Watkins updated her driver's license address online in 2013, she checked "yes" in response to the statement, "I want to register to vote."

Response: After making a reasonable inquiry into this request, defendant lacks sufficient information to truthfully admit or deny it, because Defendant does not maintain records of this information.

Request No. 5: Admit that when Ms. Watkins attempted to vote on Election Day 2014, her name was not on the rolls in Dallas County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny, because Defendant does not have access to Dallas County's 2014 rolls.

Request No. 6: Admit that on Election Day 2014, Ms. Watkins was still registered in Denton County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny, because Defendant does not have access to Denton County's 2014 rolls.

Request No. 7: Admit that on Election Day 2014, Ms. Watkins cast a provisional ballot.

Response: After making a reasonable inquiry into this request, Defendant lacks knowledge sufficient to truthfully admit or deny it. Defendant notes that there is no voting history for Ms. Watkins in the statewide voter registration system in 2014. The effective date of Ms. Watkins' voter registration in Dallas County is December 4, 2014; however, the source code associated with Ms. Watkins' registration is not the provisional ballot source code and thus Defendant cannot infer that it was necessarily done via provisional ballot.

Request No. 8: Admit that the Secretary of State issued a notice to Ms. Watkins that her vote on Election Day 2014 was not counted.

Response: Denies.

**RESPONSE TO JOHN WOODS' REQUEST FOR ADMISSIONS**

Request No. 1: Admit that during a transaction on the DPS website in September 2015, Dr. Woods updated his driver's license address online.

Response: Denies that this transaction took place on the DPS website. In all other respects, admits.

Request No. 2: Admit that when Dr. Woods updated his driver's license address online in 2015, he checked "yes" in response to the statement, "I want to register to vote."

Response: After making a reasonable inquiry into this request, defendant lacks sufficient information to truthfully admit or deny it, because defendant does not maintain records of this information.

Request No. 3: Admit that when Dr. Woods attempted to vote on Election Day 2015, his name was not on the rolls in Harris County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it, because Defendant does not have access to Harris County's 2015 rolls.

Request No. 4: Admit that on Election Day 2015, Dr. Woods was still registered in Travis County.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it, because Defendant does not have access to Travis County's 2015 rolls.

Request No. 5: Admit that on Election Day 2015, Dr. Woods cast a provisional ballot in Harris County.

Response: After making a reasonable inquiry into this request, Defendant admits that there was a voter application date for a John Oates Oates for Harris County, with Dr. Woods' driver license number, dated November 3, 2015, with a provisional ballot source code, in the state's voter registration database. Defendant admits that there is a transfer of a John Oates Woods on November 9, 2015, as a new voter registration application for Harris County, with the same driver license number. The effective date of Dr. Woods' registration in Harris is December 3, 2015. Defendant notes, however, that there is no voting history for Dr. Woods in the statewide voter registration system in 2015.

Request No. 6: Admit that on March 2, 2015, the Secretary of State's office responded to a public information act request from Mimi Marziani attaching a list of 4,608 voters who reported a problem with their voter registration records that implicated voter registration practices at DPS between January 1, 2012 and March 2, 2015.

Response: Denies that the individuals on this list reported a "problem with their voter registration records that implicated voter registration practices at DPS," and denies that any list provided by

the Secretary of State's office on March 2, 2015 was current through March 2, 2015; it was current through February 27, 2015. In all other respects, admits.

Request No. 7: Admit that on May 26, 2015, the Secretary of State's office responded to a public information act request from Mimi Marziani attaching a list of 332 voters who reported a problem with their voter registration records that implicated voter registration practices at DPS between February 27, 2015 and May 13, 2015.

Response: Denies that the individuals on this list reported a "problem with their voter registration records that implicated voter registration practices at DPS." In all other respects, admits.

Request No. 8: Admit that between September 2013 and May 26, 2015, the State recorded, and local election workers investigated, complaints from approximately 1,947 voters who completed an online transaction with DPS and, through that transaction, checked "yes.... I want to register to vote", but were subsequently denied a regular ballot when they attempted to vote.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it, because Defendant does not maintain records of voters who check "yes...I want to register to vote" *and* are "subsequently denied a regular ballot when they attempt to vote", nor do Defendants track who is "subsequently denied a regular ballot when they attempt to vote" to the extent they would have knowledge of every such voter.

Request No. 9: Admit that on May 27, 2015, Peter Kraus and Mimi Marziani sent the Secretary of State a letter giving him notice that eligible voters Benjamin Hernandez and Totysa Watkins had claims against the State for violations of the NVRA.

Response: Objects that this request calls for a legal conclusion regarding whether notice was legally sufficient under the NVRA to waive the Defendant's Eleventh Amendment immunity.

Request No. 10: Admit that on October 23, 2015, Peter Kraus and Mimi Marziani sent the Secretary of State a second letter, supplementing the May 27<sup>th</sup> Notice Letter giving him notice that Jarrod Stringer had claims against the State for violations of the NVRA.

Response: Objects that this request calls for a legal conclusion regarding whether notice was legally sufficient under the NVRA to waive the Defendant's Eleventh Amendment immunity.

Request No. 11: Admit that on November 18, 2015, Peter Kraus and Mimi Marziani sent the Secretary of State a third letter, supplementing the May 27<sup>th</sup> Notice Letter giving him notice that John Woods had claims against the State for violations of the NVRA.

Response: Objects that this request calls for a legal conclusion regarding whether notice was legally sufficient under the NVRA to waive the Defendant's Eleventh Amendment immunity.

Request No. 12: Admit that over 1,800 of the reports from voters related to problems with voter registration records that implicated voter registration practices at DPS were from voters who thought they had successfully registered online through the DPS website.

Response: Defendant objects that this request as vague and ambiguous as to “problems with voter registration records that implicated voter registration practices at DPS.”

Request No. 13: Admit that over 1,700 of the reports from voters related to problems with voter registration records that implicated voter registration practices at DPS were from voters who visited a DPS office in-person and checked yes in response to the question of whether they wanted to vote.

Response: Defendant objects to this request as vague and ambiguous as to “problems with voter registration records that implicated voter registration practices at DPS.”

Request No. 14: Admit that after Carlos Cascos took office as Texas Secretary of State, he had actual knowledge that there were a significant number of reports from voters regarding problems with online DPS transactions since at least 2012.

Response: Denies.

Request No. 15: Admit that after Keith Ingram began working in the Texas Secretary of State’s office, he had actual knowledge that there were a significant number of reports from voters regarding problems with online DPS transactions since at least 2012.

Response: Denies.

Request No. 16: Admit that after Carlos Cascos took office as Texas Secretary of State, he had actual knowledge that there were a significant number of reports from voters regarding problems with in-person DPS transactions since at least 2012.

Response: Denies.

Request No. 17: Admit that after Keith Ingram began working in the Texas Secretary of State’s office, he had actual knowledge that there were a significant number of reports from voters regarding problems with in-person DPS transactions since at least 2012.

Response: Denies.

Request No. 18: Admit that after Betsy Schonhoff began working in the Texas Secretary of State’s office, she had actual knowledge of the number of reports from voters regarding problems with online DPS transactions since at least 2012.

Response: Denies.

Request No. 19: Admit that after Beva Kellison began working in the Texas Secretary of State’s office, she had actual knowledge of the number of reports from voters regarding problems with online DPS transactions since at least 2012.

Response: Denies.

Request No. 20: Admit that after Betsy Schonhoff began working in the Texas Secretary of State's office, she had actual knowledge of the number of reports from voters regarding problems with in-person DPS transactions since at least 2012.

Response: Denies.

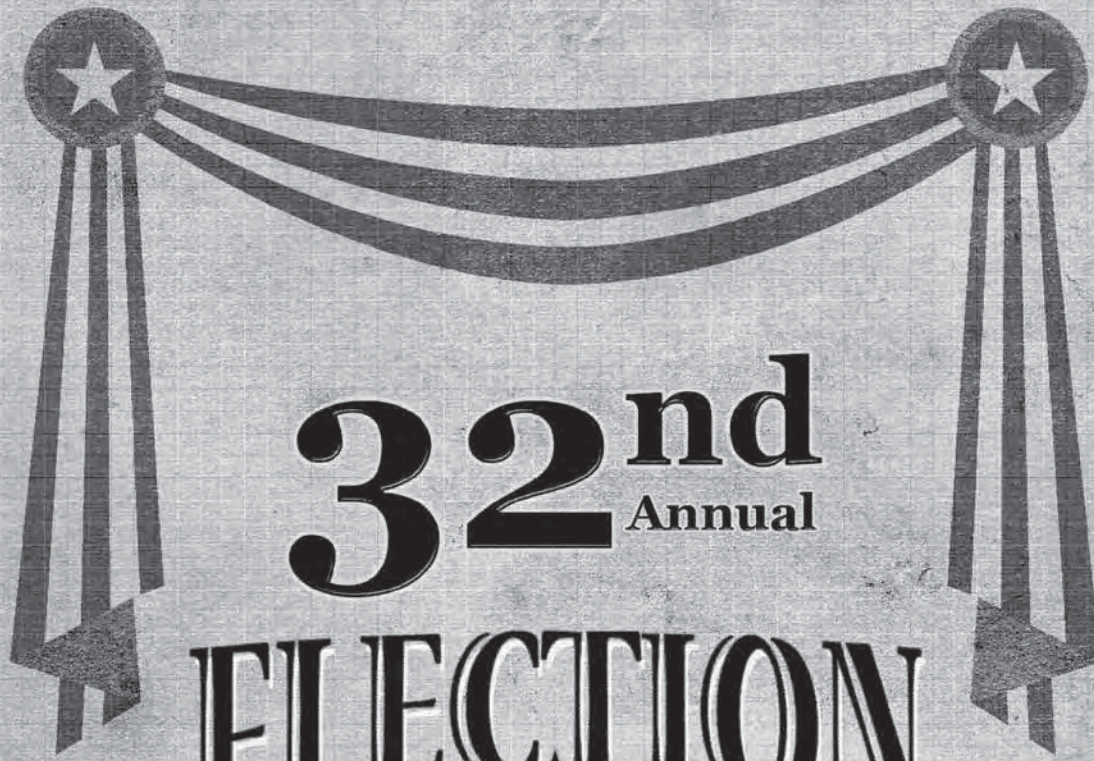
Request No. 21: Admit that after Beva Kellison began working in the Texas Secretary of State's office, she had actual knowledge of the number of reports from voters regarding problems with in-person DPS transactions since at least 2012.

Response: Denies.



# EXHIBIT 14





**32<sup>nd</sup>**  
**Annual**  
**ELECTION**  
**LAW SEMINAR**

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**COUNTY ELECTION OFFICIALS**

**JULY 7-9, 2014**



# Voter Registration 102

6/3/2014

Texas Secretary of State Elections Division

1



APPENDIX 109

P\_003982

## Active Application Files

### How do we handle DPS Applications since we do not receive a physical hard copy?

- For those counties using TEAM, you should print the voter application screen before selecting approve when processing a DPS application.
  - **Note:** if you do not approve the application through your task summary, then you will be unable to access the accompanying signature under the notes tab.
- Once the voter's application has been approved, you should also print a copy of the signature. This becomes the application that should be retained in your file system.
- If you retain your files electronically, then you can print these to a PDF or scan them for storage in your file system.



# EXHIBIT 15



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, ET AL,  
*Plaintiffs,*

v.

CARLOS H. CASCOS, IN HIS OFFICIAL CAPACITY  
AS THE TEXAS SECRETARY OF STATE AND  
STEVEN C. MCCRAW, IN HIS OFFICIAL CAPACITY  
AS THE DIRECTOR OF THE TEXAS DEPARTMENT OF  
PUBLIC SAFETY,  
*Defendants.*

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No. 5:16-cv-00257

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**DEFENDANT STEVEN C. MCCRAW'S FIRST SUPPLEMENTAL RESPONSES  
TO PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

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TO: Plaintiffs Jarrod Stringer, Benjamin Hernandez, Totysa Watkins, and John Woods  
through their attorney of record, by and through their attorney of record, Caitlyn Silhan, WATERS  
& KRAUS, LLP, 3141 Hood Street, Suite 700, Dallas, Texas 75219.

**Dated: January 20, 2017.**

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES E. DAVIS  
Deputy Attorney General for Civil Litigation

ANGELA V. COLMENERO  
Chief, General Litigation Division

/s/Anne Marie Mackin  
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ATTORNEYS FOR DEFENDANTS

**RESPONSES TO JARROD STRINGER'S REQUEST FOR ADMISSIONS**

Request No. 1: Admit that Defendant Steven C. McCraw is the Director of the Texas Department of Public Safety ("DPS").

Response: Admits.

Request No. 2: Admit that DPS operates offices around the state and issues Texas driver's licenses.

Response: Admits.

Request No. 3: Admit that each Texas motor vehicle driver's license application submitted to DPS shall serve as an application for voter registration with respect to elections for Federal office.

Response: Admits, insofar as such driver license application is submitted to the appropriate State motor vehicle authority under State law, is signed by the applicant, and is otherwise consistent with all applicable State and federal law. 52 U.S.C. §20504(a)(1). In all other respects, deny.

Request No. 4: Admit that DPS shall include a voter registration application for elections for Federal office as part of an application for a Texas driver's license. Admit that DPS is responsible for transmitting completed voter registration portions of an application for a Texas driver license to the Secretary of State.

Response: Admits that DPS shall include an opportunity to register to vote in elections for Federal office in all driver license applications and renewal applications, and admits that DPS is responsible for transmitting information about voter registration applicants to SOS. In all other respects, denies.

Request No. 5: Admit that when an applicant visits a DPS office in-person to apply for a new driver's license, he or she must fill out a form called "DL-14A."

Response: Admits that, when an applicant visits a DPS office in-person to apply for an original, non-commercial driver license, he or she must fill out a form called DL-14A *or DL-14As*.

Request No. 6: Admit that question 2 on form DL-14A asks a DPS applicant to check “Yes” or “No” in response to the question, “If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information?”

Response: Admits.

Request No. 7: Admit that when an applicant visits a DPS office in-person and fills out form DL-14A, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to question 2.

Response: Admits that that when an applicant visits a DPS office in-person and fills out form DL-14A, a DPS employee manually inputs required field information provided on the form into the DLS via computer. Not all information provided on the form is entered into DLS. The information entered can include the response to question 2. In all other respects, denies.

Request No. 8: Admit that if an eligible voter checks “Yes” in response to question 2 on form DL-14A, the DPS employee will click on the voter registration box in the Voter Field in the “driver license system,” referred to as “DLS.”

Response: Admits that if an applicant checks “Yes” in response to question 2 on form DL-14A *or DL-14As*, the DPS employee will click on the voter registration box in the Voter Registration Information Field in the “driver license system,” referred to as “DLS.”

Request No. 9: Admit that in the Voter Field, the DPS employee is prompted in the DLS to select from a choice of options in a drop-down menu including: (a) Select “Change” for name or address change; (b) Select “New” for first time Texas voter; or (c) Select “Replacement” if replacing a voter registration card.

Response: Admits that in the Voter Registration *Information* Field, the DPS employee is prompted in the DLS to select from a choice of options in a drop-down menu including: (a) Select “Change” for name or address change; (b) Select “New” for first time Texas voter or (c) Select “Replacement” if replacing a voter registration card.

Request No. 10: Admit that at least prior to May 27, 2015, if a DPS applicant did not check “Yes” in response to question 2 on form DL-14A, the DPS employee would not click on the voter registration box in the Voter Field, and would leave it blank.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it because Defendant cannot say with certainty what each DPS employee has done in each particular factual scenario.

Request No. 11: Admit that when an applicant visits a DPS office in-person to renew or replace his or her driver’s license, he or she must fill out a form called “DL-43.”

Response: Admits that when an applicant visits a DPS office in-person to renew, replace *or change* his or her non-commercial driver license, he or she must fill out a form called “DL-43.”

Request No. 12: Admit that question 2 on form DL-43 asks an applicant to check “Yes” or “No” in response to the question, “If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information?”

Response: Admits, although there is additional language in question 2 that is omitted from this request for admission.

Request No. 13: Admit that when an applicant visits a DPS office in-person and fills out form DL-43, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to question 2.

Response: Admits that that when an applicant visits a DPS office in-person and fills out form DL-43, a DPS employee manually inputs *required* field information provided on the form into the DLS via computer. Denies that all information provided on the form is manually entered into DLS.

Request No. 14: Admit that if an eligible voter checks “Yes” in response to question 2 on form DL-43, the DPS employee will click on the voter registration box in the Voter Field in the DLS.

Response: Admits that if an *applicant* checks “Yes” in response to question 2 on form DL-43, the DPS employee will click on the voter registration box in the *Voter Registration Information* Field in the “driver license system,” referred to as “DLS.”

Request No. 15: Admit that in the Voter Field in the DLS, the DPS employee is prompted to select from a choice of options in a drop-down menu including: (a) Select “Change” for name or address change; (b) Select “New” for first time Texas voter; or (c) Select “Replacement” if replacing a voter registration card.

Response: Admits that in the *Voter Registration Information* Field, the DPS employee is prompted in the DLS to select from a choice of options in a drop-down menu including: (a) Select “Change” for name or address change; (b) Select “New” for first time Texas voter; or (c) Select “Replacement” if replacing a voter registration card.

Request No. 16: Admit that at least prior to May 27, 2015, if an applicant did not check “Yes” in response to question 2 on form DL-43, the DPS employee would not click on the voter registration box in the Voter Field in DLS, and would leave it blank.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it because Defendant cannot say with certainty what each DPS employee has done in each particular factual scenario.

Request No. 17: Admit that when an applicant visits a DPS office in-person to update his or her address on a driver’s license, he or she must fill out a form called “DL-64.”

Response: Denies.

Request No. 18: Admit that one question on form DL-64 asks an applicant to check “Yes” or “No” in response to the question, “If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information?”

Response: Admits.

Request No. 19: Admit that when an applicant visits a DPS office in-person and fills out form DL-64, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to the question of whether he or she would like to register to vote.

Response: Denies, form DL-64 is not used for in-person address changes.

Request No. 20: Admit that if an eligible voter checks “Yes” in response to question 2 on form DL-64, the DPS employee will click on the voter registration box in the Voter Field in the DLS.

Response: Denies, form DL-64 is not used for in-person address changes.

Request No. 21: Admit that at least prior to May 2015, form DL-64 did not include any question about whether the applicant wanted to register to vote.

Response: Admits.

Request No. 22: Admit that if the eligible voter indicates they are already a registered voter and require no address change, the DPS employee will leave the Voter Field in DLS blank.

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it because Defendant cannot say with certainty what each DPS employee has done in each particular factual scenario.

Request No. 23: Admit that DPS employees provide a receipt to every applicant who completes an in-person transaction at DPS.

Response: Admits.

Request No. 24: Admit that voter registration information is printed on the receipt that a voter receives after the in-person transaction is completed.

Response: Admits that the receipt issued at the completion of an in-person transaction notes whether the individual answered the voter registration question “Y” or “N.”

Request No. 25: Admit that all of the information inputted by DPS employees for in-person transactions is saved electronically in the DLS, including the voter registration information.



Response: Admits.

Request No. 26: Admit that the electronic file for each prospective voter that is transferred to the Secretary of State's office includes a digital image of that voter's signature.

Response: Admits that the *information* DPS transmits to SOS about each applicant for voter registration includes a digital image of the *applicant's* signature.

### **RESPONSES TO BENJAMIN HERNANDEZ'S REQUEST FOR ADMISSIONS**

Request No. 1: Admit that the State of Texas permits certain Texas driver's license holders to renew their driver's license and/or update the address on their licenses online on DPS' website at [www.txdps.state.tx.us](http://www.txdps.state.tx.us).

Response: Admits that certain Texas driver license holders may initiate renewal of their driver licenses or updates to the address on those licenses on the DPS website. Denies that these transactions are completed on the DPS website.

Request No. 2: Admit that all Texas driver's license holders are able to update the address information associated with their driver's license online through a portion of the DPS website entitled "Driver License Renewal and Change of Address," available at <https://txapps.texas.gov/tolapp/txdl/> at any time.

Response: Denies.

Request No. 3: Admit that some Texas driver's license holders are able to renew their license online through a portion of the DPS website entitled "Driver License Renewal and Change of Address," available at <https://txapps.texas.gov/tolapp/txdl/>.

Response: Denies that these transactions are completed on the DPS website. In all other respects, admits.

Request No. 4: Admit that website users will be informed after logging into the website whether they are eligible to renew their license online.

Response: Admits.

Request No. 5: Admit that the DPS Driver License Renewal and Change of Address website page provides a single online process for qualified applicants to renew their driver's license, update the address listed on their driver's license, or complete both processes in a single online transaction.

Response: Denies that these transactions are completed on the DPS website. In all other respects, admits.

Request No. 6: Admit that the online process involves eight “Steps to Complete,” including the following steps: Welcome, Login, Select Services, Enter Address, Select Options, Review Order, Submit Payment, and Receipt.

Response: Admits.

Request No. 7: Admit that, until recently, when applicants reached Step 5 of this online process, they were asked to check “yes” or “no” in response to the statement, “I want to register to vote.”

Response: Denies that this is a complete statement. Admits that, until February 27, 2016, Step 5 of this online process required the licensee to select “yes” or “no” beneath the statement “I want to register to vote. Selecting ‘yes’ **does not** register you to vote. A link to the [SOS] voter website (where a voter application may be downloaded or requested) will be available on your receipt page.” (emphasis original).

Request No. 8: Admit that the now when applicants reach Step 5 of the online process, they are asked “Do you want to request a voter application?”

Response: Denies that this is a complete statement. Admits that when applicants reach Step 5 of the online process, they are asked “Do you want to request a voter application? You’ll receive a link to a voter application on your receipt page.”

Request No. 9: Admit that DPS changed the language in Step 5 after the Complaint was filed in this lawsuit.

Response: Denies.

Request No. 10: Admit that, previously, if an eligible voter checked “yes” under the statement “I want to register to vote,” DPS did not register that individual to vote.

Response: Denies that this is a complete statement. Admits, insofar as DPS does not register any individuals to vote. Admits that individuals are not registered to vote in connection with their interactions with DPS unless they submit an image of their signature, either by submitting a signed application by mail, or providing an electronic image of their physical signature in person at a DPS location.

Request No. 11: Admit that, currently, if an eligible voter checks “yes” under the question, “Do you want to request a voter application?” they are not registered to vote.

Response: Admits that DPS does not register any individuals to vote. Admits that individuals are not registered to vote in connection with their interactions with DPS unless they submit an image of their signature, either by submitting a signed application by mail, or providing an electronic image of their physical signature in person at a DPS location.

Request No. 12: Admit that if an eligible voter checks “yes” under the statement “I want to register to vote,” DPS does not update that applicant’s voter registration records.

Response: Admits that DPS does not update any individuals' voter registration records.

Request No. 13: Admit that if an eligible voter checks "yes" under the statement "Request a voter registration application," DPS does not update that applicant's voter registration records.

Response: Admits that DPS does not update any individuals' voter registration records.

Request No. 14: Admit that if a correct driver's license number or if correct residence address or mailing address information is missing from a registration application received by DPS in-person, DPS employees have a legal obligation to correct the customer's application by entering that information on the application.

Response: Admits that, under Texas Election Code §20.063(d), "[i]f a completed voter registration application submitted to a department employee does not include the applicant's correct driver's license number or personal identification card number, a department employee shall enter the appropriate information on the application. If a completed application does not include the applicant's correct residence address or mailing address, a department employee shall obtain the appropriate information from the applicant and enter the information on the application." Otherwise, denies.

Request No. 15: Admit that individuals who receive an invitation to renew their driver's license by mail can renew by mail by filling out form DL-43 and mailing it back to DPS.

Response: Denies.

Request No. 16: Admit that when DPS processes a request to renew a driver's license by mail, DPS mails a voter registration application form to any requestor who checks "yes" in response to Question 2 on form DL-43.

Response: Denies.

Request No. 17: Admit that individuals can change their driver's license address by mail by completing form DL-64 and mailing it to DPS along with the required fee.

Response: Admits.

Request No. 18: Admit that when DPS receives a form DL-64 in the mail which indicates the requestor wants to register to vote, DPS mails a voter registration form to the requestor.

Response: Denies.

Request No. 19: Admit that a change of address that relates to a driver's license that is submitted to DPS by mail serves as a change of address for voter registration unless the licensee indicates that the change is not for voter registration purposes.

Response: Denies that this is a complete statement. Admits that information regarding a change of address submitted by an applicant to DPS by mail is provided to the SOS in the daily update file.

Request No. 20: Admit that if a correct driver's license number, residence address, or mailing address information is missing from a renewal or change of address application received by DPS by mail, DPS employees have a legal obligation to correct the individual's application by entering the information on the application.

Response: Admits that, if a person sends DPS an incomplete form by mail, DPS returns the form to the applicant for the applicant to correct and return to DPS. In all other respects, denies.

Request No. 21: Admit that the date of submission of a change of address to a DPS employee by mail is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration.

Response: Admits that the date of submission DPS provides to SOS is the date of the processing of the form received at DPS by mail. *See* TEX. ELEC. CODE §20.063(c).

Request No. 22: Admit that the date of submission of a driver's license renewal application to a DPS employee by mail is considered to be the date of submission to the voter registrar for the purpose of determining the effective date of registration.

Response: Admits that the date of submission DPS provides to SOS is the date of the processing of the form received at DPS by mail. *See* TEX. ELEC. CODE §20.063(c).

Request No. 23: Admit that when a DPS employee receives a request to renew a driver's license by mail, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to the question of whether he or she would like to register to vote.

Response: Denies.

Request No. 24: Admit that when a DPS employee receives a request to change the address on a driver's license by mail, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to the question of whether the individual would like to register to vote.

Response: Admits.

Request No. 25: Admit that no payment receipt is sent to an applicant who changes his or her driver's license address by mail.

Response: Admits.

## **RESPONSES TO TOTYSA WATKIN'S REQUEST FOR ADMISSIONS**

Request No. 1: Admit that all of the information inputted by DPS employees for transactions by mail is saved electronically in the DLS, including voter registration information.

Response: Admits that the voter registration information from form DL-64 address changes by mail is input and saved electronically in the DLS. In all other respects, denies.

Request No. 2: Admit that voter registration information is electronically transmitted from DPS to the SOS each night from Monday through Friday.

Response: Admits that voter registration information is electronically transmitted from DPS to the SOS seven days per week.

Request No. 3: Admit that voter registration information is electronically transmitted from DPS to the SOS in a single computer file.

Response: Denies.

Request No. 4: Admit that voter registration information is electronically transmitted from DPS to the SOS in a “batch file,” and includes commands that can be processed by the SOS data system.

Response: Admits that voter registration information is electronically transmitted from DPS to the SOS in a “batch file.” Otherwise, denies.

Request No. 5: Admit that each day, the files of applicants where “Yes” has been entered as a response in the Voter Field are combined in a single file.

Response: Admits.

Request No. 6: Admit that each day, the files of applicants where “Yes” has been entered as a response in the Voter Field following an in-person transaction are combined in a single file.

Response: Admits.

Request No. 7: Admit that each day, the files of applicants where “Yes” has been entered as a response in the Voter Field following a transaction by mail are combined in a single file.

Response: Admits.

Request No. 8: Admit that each day, the files of applicants where “Yes” has been entered as a response in the Voter Field are combined in a single file, regardless of whether any individual applicant completed an in-person or mail transaction.

Response: Admits.

Request No. 9: Admit that “Yes” is never entered as a response in the Voter Field following an online transaction.



Response: Admits that, when an individual updates his or her driver license online, the voter field is not accessed, as a signature is not provided.

Request No. 10: Admit that for files of applicants where “Yes” has been entered as a response in the Voter Field, the Voter Registration Status is set to “Ready for SOS Batch File.”

Response: Admits.

Request No. 11: Admit that for any DLS file on which an eligible voter has indicated he or she wants to register to vote, the Voter Registration Status is set to “Ready for SOS Batch File.”

Response: Denies.

Request No. 12: Admit that, prior to transmission to SOS, the DPS computer system locates records that meet the following criteria: (i) Voter Registration Status is set to “Ready for SOS Batch File” AND (ii) Administrative Status is not “Reported Deceased” AND (iii) Voter Registration = “Yes” OR (i) Card type = EC AND (ii) Voter Registration Status is set to “Ready for SOS Batch File” AND (iii) Voter Registration = “Yes.”

Response: Subject to the protective order entered in this cause, admits.

Request No. 13: Admit that the DPS computer system writes the following information to the batch file for each record: Last Name, First Name, Middle Name, Suffix, Date of Birth, Physical Address, Mailing Address, Physical County, Card Information including Card Type of Driver’s License or Identification Card, the Driver’s License or Identification card number, the application date, the Social Security Number, the AKA Name, Voter Status, Election Judge Information, Signature Image, and Sex.

Response: Subject to the protective order entered in this cause, admits that the DPS computer system writes the following information to the daily voter registration batch file for each record: Last Name, First Name, Middle Name, Suffix, Date of Birth, Physical Address, Mailing Address, Physical County, Card Information including Card Type of Driver’s License or Identification Card, the Driver’s License or Identification card number, the application date, the Social Security Number, the AKA Name, Voter Status, Election Judge Information, Signature Image, and Sex.

Request No. 14: Admit that the system updates the Voter Registration Status to “Record Sent to SOS” for each record included in the file transmitted to SOS.

Response: Admits that the system updates the Voter Registration Status to “Record Sent to SOS” for each record included in the daily voter registration file transmitted to SOS. In all other respects, denies.

Request No. 15: Admit that the system records an audit transaction with the following information: Date, Batch Type = Extract, Batch Name = Voter Registration, Error Code, Process Area = License Issuance, Records Count, Start Time, and End Time.

Response: Admits.

Request No. 16: Admit that Ms. Watkins updated her driver's license address online through the DPS website in 2011.

Response: Denies.

Request No. 17: Admit that during the transaction on the DPS website, Ms. Watkins checked "yes" in response to the statement, "I want to register to vote."

Response: Denies.

Request No. 18: Admit that Ms. Watkins updated her driver's license address online through the DPS website in 2013.

Response: Denies that this transaction took place on the DPS website. In all other respects, admits.

Request No. 19: Admit that during that second transaction on the DPS website in 2013, Ms. Watkins checked "yes" in response to the statement, "I want to register to vote."

Response: After making a reasonable inquiry into this request, Defendant lacks sufficient information to truthfully admit or deny it because Defendant has no record of this information.

Request No. 20: Admit that when an eligible voter who updated his or her driver's license information on the DPS website before this lawsuit was filed responded "yes" to the statement, "I want to register to vote," or under the statement "Request a voter registration application," DPS did not transfer his or her data to the Texas Secretary of State.

Response: Admits, only those voters who submitted a voter registration application in accordance with State law would have had their voter registration information updated. Defendant further notes that online driver license address changes are initiated on the DPS website, but processed on Texas.gov.

Request No. 21: Admit that when an eligible voter who updates his or her driver's license information on the current DPS website responds "yes" under the statement "Request a voter registration application," DPS does not transfer his or her data to the Texas Secretary of State

Response: Admits, only those voters who submit a voter registration application in accordance with state law will have their voter registration information updated.

Request No. 22: Admit that when an eligible voter who updated his or her driver's license information on the DPS website before this lawsuit was filed responded "yes" to the statement, "I want to register to vote," DPS did not transfer his or her data to local election officials.

Response: Admits, only those voters who submitted a voter registration application in accordance with State law would have had their voter registration information updated. Defendant also notes that online driver license address changes are initiated on the DPS website, but processed on Texas.gov.

Request No. 23: Admit that when an eligible voter who updates his or her driver's license information on the current DPS website responds "yes" under the statement "Request a voter registration application," DPS does not transfer his or her data to local election officials.

Response: Admits, only those voters who submit a voter registration application in accordance with state law will have their voter registration information updated. Defendant also notes that online driver license address changes are initiated on the DPS website, but processed on Texas.gov.

Request No. 24: Admit that when an eligible voter who renewed his or her driver's license on the DPS website before this lawsuit was filed responded "yes" to the statement, "I want to register to vote" DPS did not transfer his or her data to the Texas Secretary of State.

Response: Admits, only those voters who submitted a voter registration application in accordance with State law would have had their voter registration information updated. Defendant also notes that online driver license address changes are initiated on the DPS website, but processed on Texas.gov.

Request No. 25: Admit that when an eligible voter who renews his or her driver's license on the current DPS website responds "yes" under the statement "Request a voter registration application," DPS does not transfer his or her data to local election officials.

Response: Admits, only those voters who submit a voter registration application in accordance with state law will have their voter registration information updated. Defendant also notes that online driver license address changes are initiated on the DPS website, but processed on Texas.gov.

Request No. 26: Admit that previously on the DPS website before the language on Step 5 was changed, above the previous prompt, "I want to register to vote," the website displayed the statement, "Selecting 'Yes' does not register you to vote, but instead a link to the Secretary of State Voter website (where a voter application may be downloaded or requested) will be available on your receipt page."

Response: Admits that, until February 27, 2016, Step 5 of this online process required the licensee to select "yes" or "no" beneath the statement "I want to register to vote. Selecting 'yes' **does not** register you to vote. A link to the [SOS] voter website (where a voter application may be downloaded or requested) will be available on your receipt page." (emphasis original).

Request No. 27: Admit that currently on the DPS website since the language on Step 5 has changed, next to the prompt, "Do you want to request a voter application," the website displays the statement, "You will receive a link to a voter application on your receipt page."

Response: Admits, but notes that Step 5 takes place on Texas.gov, not the DPS website.

Request No. 28: Admit that currently on the DPS website since the language on Step 5 has changed, below to the prompt, “Do you want to request a voter application,” the website displays language next to the check box for “Yes” which states “(This does not register you to vote.)”

Response: Admits, but note that Step 5 takes place on Texas.gov, not the DPS website.

Request No. 29: Admit that before this lawsuit was filed, an eligible voter who selected “yes” in response to the prompt, “I want to register to vote,” when updating information through DPS online renewal, was told to visit the Secretary of State’s website to view instructions for how to register to vote.

Response: Denies.

### **RESPONSES TO JOHN WOOD’S REQUEST FOR ADMISSIONS**

Request No. 1: Admit that on Step 3 in the Answer to FAQ No. 17 on the DPS website, the only reference to registering to vote simply lists “2. Register to vote” without any further explanation.

Response: Defendant objects that this request is unintelligible.

Request No. 2: Admit that the information an eligible voter submits electronically through the DPS website may be used to *cancel* a voter’s prior registration record in his or her prior county of residence pursuant to state law.

Response: Defendant objects that this request is hypothetical, calls for speculation, and calls for a legal conclusion, rather than an application of law to fact. Defendant can neither admit nor deny what any other entities do regarding voter registration status.

Request No. 3: Admit that the DPS website does not explain that completing DPS’ online change-of-address form may jeopardize a voter’s registration status at his or her former residence.

Response: Defendant objects that this request is unintelligible.

Request No. 4: Admit that DPS transmits information about customer change-of-address transactions to counties for the purpose of removing individuals from the rolls.

Response: Denies.

Request No. 5: Admit that when DPS receives a communication through the web portal, DPS employees research the voter’s information and return information to election officials.

Response: Denies.

Request No. 6: Admit that DPS has designated two individuals who coordinate the agency’s voter registration program, and SOS is aware of these designations.

Response: Admits that DPS previously had two individuals who were identified to SOS as having roles in coordinating the agency's voter registration. Admits that DPS currently has one such individual.

Request No. 7: Admit that currently, one individual who coordinates the DPS voter registration program is Tony Rodriguez, Senior Manager, Customer Operations.

Response: Denies.

Request No. 8: Admit that currently, one individual who coordinates the DPS voter registration program is Bob Myers, Training Specialist, Customer Support.

Response: Denies.

Request No. 9: Admit that Mr. Myers is responsible for the training of Driver License Division employees in voter registration procedures and policy.

Response: Denies.

Request No. 10: Admit that Mr. Rodriguez oversees the program in our driver license offices statewide.

Response: Defendant objects to this request as unintelligible.

Request No. 11: Admit that DPS has a "DPS Voter Registration Plan" dated September 9, 2015.

Response: Admits.

Request No. 12: Admit that as set forth in the DPS Voter Registration Plan, all DPS forms have been reviewed to ensure that voter registration questions are included where required.

Response: Admits.

Request No. 13: Admit that pursuant to an agreement with the named Plaintiffs, the State implemented a new "hard stop" feature to its DLS system earlier this year.

Response: Admits.

Request No. 14: Admit that as of March 31, 2016, the DLS now requires DPS employees to provide an answer in the voter registration field before they are permitted to proceed to the next screen when helping an eligible voter who visits a DPS office in-person.

Response: Admits.



Request No. 15: Admit that DPS employees must provide a receipt to each applicant and verify that all information is correct, including the applicant's answer to the voter registration question, before any driver's license transaction is finalized when an eligible voter who visits a DPS office in-person.

Response: Admits.

Request No. 16: Admit that when an eligible voter visits a DPS office in-person, DPS has implemented a policy whereby whenever "any applicant who is a U.S. citizen... checks the 'yes' and 'no' boxes this will be considered an affirmative response, and the DPS employee will enter a 'yes' into the system thereby triggering the submission of the applicant's information to the SOS."

Response: Admits.

Request No. 17: Admit that when an eligible voter indicates on form DL-14A that he or she wants to register to vote, no hard copy of any document containing the voter's wet signature is ever sent to the Secretary of State's Office.

Response: Admits, DPS uses point-of-sale-style signature pads to collect images of physical signatures from individuals who indicate that they wish to register to vote. Defendant understands this request to refer to "wet signature" as a pen on paper, as opposed to an electronic image of a signature collected using a point-of-sale style electronic signature pad and a stylus.

Request No. 18: Admit that when an eligible voter indicates on form DL-43 that he or she wants to register to vote, no hard copy of any document containing the voter's wet signature is ever sent to the Secretary of State's Office.

Response: Admits, DPS uses point-of-sale-style signature pads to collect images of physical signatures from individuals who indicate that they wish to register to vote. Defendant understands this request to refer to "wet signature" as a pen on paper, as opposed to an electronic image of a signature collected using a point-of-sale style electronic signature pad and a stylus.

Request No. 19: Admit that when an eligible voter indicates on form DL-64 that he or she wants to register to vote, no hard copy of any document containing the voter's wet signature is ever sent to the Secretary of State's Office.

Response: Denies.

Request No. 20: Admit that when DPS sends information to SOS regarding eligible voters, the method by which they transmit information is through the web portal, rather than by sending hard copies of signed documents.

Response: Denies that DPS uses the "web portal" to transmit information to SOS. Admits that DPS sends voter registration information, including electronic images of applicants' signatures, to SOS electronically, rather than by sending hard copies of signed documents.

Request No. 21: Admit that DPS customer service representatives are subjected to at least two “performance observations” annually to ensure that these employees are performing their basic tasks.

Response: Admits.

Request No. 22: Admit that after DPS sends voter information to the SOS each night, DPS is not responsible for further reviewing voter registration data for eligibility purposes.

Response: Admits.

Request No. 23: Admit that DPS currently provides voter registration training during new employee orientation, as well as additional training as needed.

Response: Admits.

# EXHIBIT 16



## Driver License Renewal and Change of Address



### Address Change

Name

Date of Birth

#### Home Address

Please enter your home address. This address will appear on your new driver license/ID card.

Mailing Address Line 1:

Required.

Mailing Address Line 2:

Use this line only if you run out of space in Line 1.

City:

Required.

State:

Required.

Select a state

ZIP:

Required.

County:

Country:

Required.

Select a Country

#### Mailing Address

Your new driver license/ID card will be mailed to this address.

Is your Mailing Address the same as your Home Address?

☐ Yes

☒ No

Mailing Address Line 1:

Required.

Mailing Address Line 2:

Use this line only if you run out of space in Line 1.

City:

Required.

State:

Required.

Select a state

ZIP:

Required.

County:

Country:

Required.

Select a Country

Continue

### Information

#### Steps to Complete

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

Frequently Asked Questions

Log Out

# EXHIBIT 17



Options and Affirmation | Driver License Renewal and Address Change | Texas.gov - Microsoft Internet Explorer provided by TxDP

https://txdps.texas.gov/tolapp/txd/selectOptions.dl

Options and Affirmation | Driver License Renewal and Address Change

Complete the information below, then select 'Continue'.

### Options

☐ I want to donate \$1.00 to the Blindness Education, Screening, and Treatment (BEST) Program as part of my driver license transaction.

☐ I want to donate \$1.00 to the Glenda Dawson-Donate Life Texas Registry as part of my driver license transaction.

☒ I want to be an organ donor. You must select the box to receive the donor symbol on your new card, even if you've selected it before.

I want to register to vote  
 Required. Selecting "Yes" **does not** register you to vote. A link to the Secretary of State Voter website (where a voter application may be downloaded or requested) will be available on your receipt page.

☒ Yes  
☐ No

### Affirmations

☒ I agree to the following. *Required*

I am renewing my driver license and affirm the following:

- My vision has not changed, or if it has, it has been corrected.
- I do not have any physical or mental condition or disease that affects my ability to drive safely.

**Continue**

### Help

For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov Help](#).

### Resources

- [Texas Department of Public Safety](#)


### Texas.gov

[Texas.gov Policies](#)  
 © 2012 Texas.gov

4. Enter Address  
 5. Select Options  
 6. Review Order  
 7. Submit Payment  
 8. Receipt


[Frequently Asked Questions](#)  
[Where's My License or ID?](#)  
[Log Out](#)

THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



### Driver License Renewal Receipt and Temporary License

This is your temporary driver license or ID card. Permanent cards are normally mailed within three weeks, however, it may take up to 45 days to receive your card. You may check the mailing status of your card online at [www.dps.texas.gov/DriverLicenseOnlineServices.htm](http://www.dps.texas.gov/DriverLicenseOnlineServices.htm)

[Request Voter Registration Application](#)

You are NOT registered to vote. Please select the web link in the red box above to obtain a voter registration application from the Secretary of State Office.

<b>Name:</b> <b>Date of Birth:</b>	<b>DL Number:</b> <b>DL Expiration Date:</b> <b>License Type:</b> C <b>Organ Donor:</b> Yes
---------------------------------------	--

Carry this portion with your driver license or ID card. This temporary card is valid for 45 days from October 8, 2013.

---

### Payment Receipt

**Name:** \_\_\_\_\_ **Selected Services:** \_\_\_\_\_

#### Information

**Steps to Complete**

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

**Frequently Asked Questions**  
[Where's My License or ID?](#)  
[Log Out](#)

# EXHIBIT 18

Case 5:16-cv-00257-OLG Document 77-1 Filed 06/30/17 Page 138 of 207  
 https://webservices.sos.state.tx.us/vrapp/index.asp

File Edit View Favorites Tools Help

TEXAS SECRETARY OF STATE  
 ROLANDO PABLOS

Main Site News Site Index Help Contacts

### Voter Registration Application

**Note:** This service is best viewed and printed using [Internet Explorer 7 and higher](#) or [Firefox](#).

**Important:** Please confirm your county of residence before filling out this form.

[Find out if you are already registered](#)

**Are you a United States Citizen?**  
☒ Yes ☐ No

**Application Type:**  
☐ New ☐ Change ☐ Replacement

**Are you interested in serving as an election worker?**  
☐ Yes ☐ No

**Applicant Information**

First Name:  Middle Name:  Last Name:  Former Name:

Date of Birth: (mm/dd/yyyy)    Gender (optional)  Telephone Number, Include Area Code: (Optional)

TX Driver's License No. or Personal I.D. No. (Issued by the Department of Public Safety):

If no TX Driver's License or Personal Identification, give last 4 digits of your Social Security Number:  
 XXX-XX-

☐ I have not been issued a Texas Driver's License/Personal Identification Number or Social Security Number

**Residence Address**

County:  Address:  City:

State:  Zip:

**Mailing Address (If different from Residential Address)**

Address:  City:  State:  Zip:

**Please verify your data is correct before you "Submit."**

Hitting the submit button will load your information into the proper form for you to print, sign, and mail. Do not mail this screen.

Main Site | [Texas.gov](#) | [Trail](#) | [Texas Homeland Security](#)

Compact With Texans | [Open Records Policy](#) | [Privacy Policy](#) | [Accessibility Policy](#) | [Link Policy](#) | [Disclaimer](#)

Send comments and questions about the web site to: [webmaster@sos.state.tx.us](mailto:webmaster@sos.state.tx.us)

# EXHIBIT 19





NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES

## BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 4511 AUSTIN, TX

POSTAGE WILL BE PAID BY ADDRESSEE

SECRETARY OF STATE  
ELECTIONS DIVISION  
PO BOX 12887  
AUSTIN TX 78711-9972



*Fold on line and seal before mailing*

### Qualifications

- You must register to vote in the county in which you reside.
- You must be a citizen of the United States.
- You must be at least 17 years and 10 months old to register, and you must be 18 years of age by Election Day.
- You must not be finally convicted of a felony, or if you are a felon, you must have completed all of your punishment, including any term of incarceration, parole, supervision, period of probation, or you must have received a pardon.
- You must not have been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.

### Filling out the Application

- Review the application carefully, fill it out, sign and date it and mail it to the voter registrar in your county or drop it by the Voter Registrar's office.

- All voters who register to vote in Texas must provide a Texas driver's license number or personal identification number issued by the Texas Department of Public Safety. If you don't have such a number, simply provide the last four digits of your social security number. If you don't have a social security number, you need to state that fact.
- Your voter registration will become effective 30 days after it is received or on your 18th birthday, whichever is later. Your registration must be effective on or before an election day in order to vote in that election.
- If you move to another county, you must re-register in the county of your new residence.

Please visit the Texas Secretary of State website, [www.sos.state.tx.us](http://www.sos.state.tx.us), and for additional election information visit [www.votetexas.gov](http://www.votetexas.gov).

Este formulario está disponible en español. Favor de llamar a su registrador de votantes local para conseguir una versión en español.

**Texas Voter Registration Application**

For Official Use Only

Prescribed by the Office of the Secretary of State

VR64.2016E.13

Please complete sections by printing LEGIBLY. If you have any questions about how to fill out this application, please call your local voter registrar.

**1 These Questions Must Be Completed Before Proceeding. Check One.**

☐ New Application ☐ Change of Address, Name, or Other Information ☐ Request for a Replacement Card

**Are you a United States Citizen?**

☐ Yes ☐ No

**Will you be 18 years of age on or before election day?**

☐ Yes ☐ No

**If you checked 'No' in response to either of the above, do not complete this form.**

**Are you interested in serving as an election worker?**

☐ Yes ☐ No

<b>2</b> Last Name Include Suffix if any (Jr, Sr, III)	First Name	Middle Name (if any)	Former Name (if any)
<b>3</b> Residence Address: Street Address and Apartment Number. If none, describe where you live. (Do not include P.O. Box, Rural Rt. or Business Address)		City	TEXAS
		County	Zip Code
<b>4</b> Mailing Address: Street Address and Apartment Number. (If mail cannot be delivered to your residence address.)		City	State
			Zip Code

**5 City and County of Former Residence in Texas**

<b>6</b> Date of Birth: (mm/dd/yyyy)	<b>7</b> Gender (Optional)	<b>8</b> Telephone Number (Optional) Include Area Code
<input type="text"/>	<input type="checkbox"/> Male <input type="checkbox"/> Female	( <input type="text"/> ) <input type="text"/> - <input type="text"/>
<b>9</b> Texas Driver's License No. or Texas Personal I.D. No. (Issued by the Department of Public Safety)		If no Texas Driver's License or Personal Identification, give last 4 digits of your Social Security Number
<input type="text"/>		XXX-XX- <input type="text"/>

☐ I have not been issued a Texas Driver's License/Personal Identification Number or Social Security Number.


- 10** I understand that giving false information to procure a voter registration is perjury, and a crime under state and federal law. Conviction of this crime may result in imprisonment up to 180 days, a fine up to \$2,000, or both. Please read all three statements to affirm before signing.
- I am a resident of this county and a U.S. citizen;
  - I have not been finally convicted of a felony, or if a felon, I have completed all of my punishment including any term of incarceration, parole, supervision, period of probation, or I have been pardoned; and
  - I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.

**X**Date  /  / 

Signature of Applicant or Agent and Relationship to Applicant or Printed Name of Applicant if Signed by Witness and Date.


# EXHIBIT 20

THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



**Texas Department of Public Safety  
Driver License Division**

**Driver License Renewal and Change of Address**




**Welcome**

Welcome to the Texas Driver License Renewal and Change of Address system

**Services**

- Renew your driver license and/or identification (ID) card
- Change the address on your driver license and/or ID card

**What You Need**

 A printer to print your temporary driver license or ID, which is valid for 45 days. If you do not have a printer, you can renew by phone: 1-800-DL-RENEW (1-800-357-3539)

- A valid credit card (Visa, MasterCard, Discover, or American Express)
- Your current Texas driver license or ID card
- Your Social Security number

**Fees**

- Renewal of driver license (with or without changing address): \$25
- Renewal of ID (with or without changing address): \$18
- Renewal of driver license with motorcycle (with or without changing address): \$33
- Change of address only for driver license or ID: \$11

This online service is provided by Texas.gov, the official website of Texas. The price of this service includes funds that support the ongoing operations and enhancements of Texas.gov, which is provided by a third party in partnership with the State

[Continue](#)

**Information**

**Steps to Complete**

- 1 Welcome
- 2 Login
- 3 Select Services
- 4 Enter Address
- 5 Select Options
- 6 Review Order
- 7 Submit Payment
- 8 Receipt

**Frequently Asked Questions**

**Eligibility**

**Where's My License or ID?**

**En Español**

**Help**

For technical assistance with this application, please call 1-877-452-8060 or send an email to [Texas.gov Help](#)




**Resources**

- Texas Department of Public Safety

**Texas.gov**


Texas.gov Policies

© 2012 Texas.gov


38540762 RENEW-DL TEST





Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



### Select Services

Name: TEST RENEW-DL

If you are not TEST RENEW-DL please log out and email [driverlicenseerrors@dps.texas.gov](mailto:driverlicenseerrors@dps.texas.gov) to report this issue.

### Services

#### Driver License

Your DL Number: 38540762

Your DL Class: C

You are eligible to renew your driver license/ID card and/or change your address.

Renew Only
Change Address Only
Do Both - Renew & Change Address

Tell me more about the [options](#).

### Information

#### Steps to Complete

1. Welcome
2. Login
3. **Select Services**
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

---

#### Frequently Asked Questions


[Where's My License or ID?](#)

[Log Out](#)


SELECTED TO DO BOTH-RENEW AND CHANGE ADDRESS



THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division  
**Driver License Renewal and Change of Address**



### Home Address:

Name: TEST RENEW-DL

Please enter your home address. This address will appear on your new driver license/ID card.

**Street Address**  
Required  
123 ANYWHERE ST

**City:**  
Required  
ANYWHERE CITY

**State:**  
Required  
TEXAS

**ZIP:**  
Required  
77777-7777

**County:**  
Required  
TRAVIS

**Country:**  
UNITED STATES

### Mailing Address:

Your new driver license/ID card will be mailed to this address.

Is your Mailing Address the same as your Home Address?

☒ Yes  
☐ No

[Continue](#)

### Information

**Steps to Complete**

- Welcome
- Login
- Select Services
- Enter Address
- Select Options
- Review Order
- Submit Payment
- Receipt




**Frequently Asked Questions**  
Where's My License or ID?  
Log Out

**Help**  
For technical assistance with this application, please call 1-877-452-0060 or send an email to [Texas.gov Help](#).

**Resources**


- Texas Department of Public Safety

**Texas.gov**  
Texas.gov Policies  
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CLICKED CONTINUE

THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



### Select Options

Name: TEST RENEW-DL  
Your DL Number: 38540762  
Your DL Class: C

Complete the information below, then select 'Continue'

#### Options

☒ I want to donate \$1.00 to the Blindness Education, Screening, and Treatment (BEST) Program as part of my driver license transaction [?](#)

☒ I want to donate \$1.00 to the Glenda Dawson-Donale Life Texas Registry as part of my driver license transaction [?](#)

☒ I want to be an organ donor. You must select the box to receive the donor symbol on your new card, even if you've selected it before

I want to donate to the Fund for Veterans' Assistance (FVA) [?](#)  
Amount: \$

**Request a voter registration application**  
Required: Do you want to request a voter application? You will receive a link to a voter application on your receipt page [?](#)

☒ Yes (This does not register you to vote.)  
☐ No

#### Affirmations

☐ I agree to the following: Required

I am renewing my driver license and affirm the following:

- My vision has not changed; or if it has, it has been corrected
- I do not have any physical or mental condition or disease that affects my ability to drive safely

[Continue](#)

### Information

**Steps to Complete**




1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

**Frequently Asked Questions**  
[Where's My License or ID?](#)  
[Log Out](#)

**Help**  
For technical assistance with this application, please call 1-877-452-6060 or send an email to [Texas.gov Help](#) [?](#)

**Resources**  
• [Texas Department of Public Safety](#)


**Texas.gov**  
[Texas.gov Policies](#)  
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SELECTED YES TO REQUEST VOTER APPLICATION


INFORMATION “?” SHOWS:

THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



If you select 'yes', there will be a link to the Secretary of State's voter registration website on your receipt page. From that link, you can check your voter registration status or you can download a voter registration application form.

THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division

## Driver License Renewal and Change of Address



### Review

Name: TEST RENEW-DL

Your DL Number: 38540782

Your DL Class: C

Texas gov Price: \$28.00

[What is the Texas.gov price?](#)

Review your order. Select 'Edit' to make changes in the appropriate section. Select 'Continue' to proceed

### Selected Services

Driver License Renewal: \$24.00

Driver License Address Change: \$0.00

[Edit](#)

### Optional Donations

BEST donation (driver license): \$1.00

Glenda Dawson-Donate Life Texas Registry donation (driver license): \$1.00

Fund for Veterans' Assistance (FVA) donation: \$1.00

[Edit](#)

### Options

I want to request a voter registration application: Yes

I want to be an organ donor: Yes

[Edit](#)

### Home Address:

Street Address: 123 ANYWHERE ST

City: ANYWHERE CITY

State: TEXAS

ZIP: 77777-7777

County: TRAVIS

Country: UNITED STATES

[Edit](#)

### Mailing Address:

Mailing address same as Residential address

[Edit](#)

[Continue](#)

### Information

#### Steps to Complete

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

#### Frequently Asked Questions

[Where's My License or ID?](#)  
[Log Out](#)

### Help

For technical assistance with this application, please call 1-877-452-9080 or send an email to [Texas.gov Help](#).



### Help

For technical assistance with this application, please call 1-877-452-9080 or send an email to [Texas.gov Help](#).



### Resources

- [Texas Department of Public Safety](#)

### Resources

- [Texas Department of Public Safety](#)

### Texas.gov

[Texas.gov Policies](#)  
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### Texas.gov

[Texas.gov Policies](#)  
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THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division  
**Driver License Renewal and Change of Address**

**Submit Payment**

Name: TEST RENEW-DL

Your DL Number: 38540782

Your DL Class: C

Driver License Renewal:

\$24.00

Driver License Address Change:

\$0.00

BEST donation (driver license):

\$1.00

Glenda Dawson-Donor Life Texas Registry donation (driver license):

\$1.00

Fund for Veterans' Assistance (FVA) donation:

\$1.00

Texas.gov Price:

\$28.00

[Visit us on the Texas.gov price!](#)**Information****Steps to Complete**

1. Welcome
  2. Login
  3. Select Services
  4. Enter Address
  5. Select Options
  6. Review Order
  7. Submit Payment
  8. Receipt
- [Frequently Asked Questions](#)  
[Where's My License or ID?](#)  
[Log Out](#)

Enter your payment information below and select 'Submit Payment'

When you complete this transaction, Texas.gov will remit the amount paid to the agency on your behalf.

**Payment Information**

Cardholder Name

Required

RENEW-DL TEST

Credit Card Type:

Required

MasterCard

Credit Card Number:

Required

5499990123456781

Credit Card CVV:

Required

123

[View Sample Credit Card](#) to locate your credit card verification code.

Credit Card Expiration Month:

Required

May

Credit Card Expiration Year:

Required

2020

**Billing Address**

House Number:

123

Street Name:

Required

ANYWHERE ST

City:

Required

ANYWHERE CITY

State:

Required

TEXAS

ZIP Code:

Required

77777-7777

[Submit Payment](#)**Help**For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov Help](#).**Resources**

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- [Texas.gov Policies](#)
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THE OFFICIAL WEBSITE OF THE STATE OF TEXAS



Texas Department of Public Safety  
Driver License Division  
**Driver License Renewal and Change of Address**



### Driver License Renewal Receipt and Temporary License

You are not registered to vote until you have filled out the online application, printed it, and mailed it to your local County Voter Registrar.  
Click here to: [Download a Voter Registration Application](#)

This is your temporary driver license or ID card. Permanent cards are normally mailed within three weeks; however, it may take up to 45 days to receive your card. You may check the mailing status of your card online at [www.dps.texas.gov/DriverLicenseOnlineServices.htm](http://www.dps.texas.gov/DriverLicenseOnlineServices.htm)

<b>Name:</b> TEST RENEW-DL	<b>DL Number:</b> 38540762
<b>Date of Birth:</b> 08/08/1976	<b>DL Expiration Date:</b> 08/08/2022
<b>Home Address:</b> 123 ANYWHERE ST ANYWHERE CITY, TEXAS 77777-7777	<b>License Type:</b> C Organ Donor: Yes

Carry this portion with your driver license or ID card. This temporary card is valid for 45 days from February 10, 2018.

### Payment Receipt

<b>Name:</b> TEST RENEW-DL	<b>Selected Services:</b>	
<b>Mailing Address:</b> 123 ANYWHERE ST ANYWHERE CITY, TEXAS 77777-7777 TRAVIS UNITED STATES	Driver License Renewal	\$24.00
<b>Billing Information:</b> 123 ANYWHERE ST ANYWHERE CITY, TEXAS 77777-7777 Cardholder Name: RENEW-DL TEST MAST: XXXXXXXXXXXX6781	Driver License Address Change	\$0.00
<b>Taxes.gov Price:</b> *The Texas.gov Price will include any donations listed above.	<b>Selected Options:</b> I selected the following options: Become an Organ Donor — Yes BEST donation (driver license): Glenda Dawson-Donale Life Texas Registry donation (driver license): Fund for Veterans' Assistance (FVA) donation:	\$1.00 \$1.00 \$1.00
<b>Transaction Date:</b> February 10, 2018 12:59:44 PM CST <b>Confirmation Number:</b> 405DL11394066		<b>\$28.00</b>

### Information

#### Steps to Complete

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

#### Frequently Asked Questions

Where's My License or ID?  
Log Out

### Help

For technical assistance with this application, please call 1-877-452-9060 or send an email to [Texas.gov Help](#).

### Resources

• [Texas Department of Public Safety](#)

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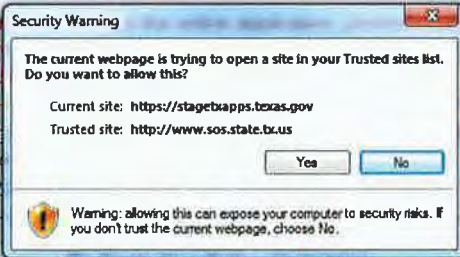


## Driver License Renewal Receipt and Temporary License

You are not registered to vote until you have filled out the online application, printed it, and mailed it to your local County Voter Registrar.  
Click here to: [Download a Voter Registration Application](#)

This is your temporary driver license or ID card. Permanent cards are normally mailed within three weeks; however, it may take up to 45 days to receive your card. You may check the mailing status of your card online at [www.dps.texas.gov/DriverLicenseOnlineServices.htm](http://www.dps.texas.gov/DriverLicenseOnlineServices.htm)

<b>Name:</b> TEST RENEW-DL	<b>DL Expiration Date:</b> 08/08/2022
<b>Date of Birth:</b> 08/08/1976	<b>License Type:</b> C
<b>Home Address:</b> 123 ANYWHERE ST ANYWHERE CITY, TEXAS 77777-7777	<b>Organ Donor:</b> Yes



### Information

#### Steps to Complete

1. Welcome
2. Login
3. Select Services
4. Enter Address
5. Select Options
6. Review Order
7. Submit Payment
8. Receipt

#### Frequently Asked Questions

Where's My License or ID?  
Log Out

SELECTED "YES"



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TEXAS SECRETARY OF STATE  
CARLOS H. CASCOS

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**Election Outlook:** Early voting for the March 1, 2016 Primary Election runs Tuesday, February 16 – Friday, February 26 | Last day to apply for ballot by mail (received, not postmarked) is Friday, February 19, 2016 | [What's on the Ballot](#) | [Voter Information](#) | Don't have a photo ID for voting? [Election Identification Certificates](#) are available from **DPS offices**.

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**Elections And Voter Information**

**Request for Voter Registration Applications**

To be eligible to register in Texas, you must:

- be a U.S. citizen;
- be a resident of the county;
- be 18 years old (you may register at 17 years and 10 months);
- not a convicted felon (unless a person's sentence is completed, including any probation or parole)
- not declared mentally incapacitated by a court of law

For more information, please read the [Voter Registration in Texas](#) pamphlet.

**En Español**

**USA Military & Overseas Voters**

**Am I Registered to Vote?**

Can't remember if you've registered in the past? Please feel free to use our [Texas Voter Information Website](#) that not only confirms whether you are registered or not, but will even allow you to search for your polling place location prior to an election. The service is easy to use. All you need is a Texas Driver's license to get started. If you know that you have not registered to vote then please use the [Informal Online Application](#) service which is displayed to the right.

**Am I Already Registered?**

[Am I Registered to Vote?](#)

**Informal Online Application**

You may fill out a [voter registration application online](#), print it and mail it to the **voter registrar in your county of residence**. You are not registered until you have filled out the online application, printed it, and mailed it to your local **County Voter Registrar**. The County Voter Registrar's address can be found at the top of the online outputted voter registration application once you have submitted your information from the fill-in-the-blanks screen.

**Note:** This service is best viewed on [Internet Explorer 7 and higher](#) or [Firefox](#).

**Informal Online Voter Registration Application**

**Other Voter Registration Application Methods**

- You may request a [postage-paid application by filling out this form](#) so that a voter registration application can be mailed to you. You must mail the voter registration application to the **voter registrar** in your county of residence. Voter registration applications are also available at many post offices, libraries, Texas Department of Public Safety offices, and Texas Health and Human Services Commission offices throughout the state.
- **For Harris County Residents Only** [Voter Registration Application - Vietnamese](#) (PDF) Must be mailed in a stamped envelope
- **For Harris County Residents Only** [Voter Registration Application - Chinese](#) (PDF) Must be mailed in a stamped envelope
- [Request an Application for a Ballot by Mail](#)

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# EXHIBIT 21

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
VS.	)	
	)	
ROLANDO PABLOS, IN HIS	)	Civil No. 5:16-CV-00257
OFFICIAL CAPACITY AS THE	)	
TEXAS SECRETARY OF STATE AND	)	
STEVEN C. MCCRAW, IN HIS	)	
OFFICIAL CAPACITY AS THE	)	
DIRECTOR OF THE Texas	)	
Department of Public Safety,	)	
	)	
Defendants.	)	

-----  
ORAL AND VIDEOTAPED DEPOSITION OF

BENJAMIN HERNANDEZ

MAY 18, 2017

VOLUME 1  
-----

ORAL AND VIDEOTAPED DEPOSITION OF BENJAMIN HERNANDEZ,  
produced as a witness at the instance of the DEFENDANT, and  
duly sworn, was taken in the above-styled and numbered cause on  
May 18, 2017, from 10:28 a.m. to 11:54 a.m., before Arden  
Bolak, CSR in and for the State of Texas, reported by machine  
shorthand, at the law offices of Waters & Kraus, LLP, 3141 Hood  
Street, Suite 700, Dallas, Texas 75219, pursuant to the Texas  
Rules of Civil Procedure and the provisions stated on the  
record or attached hereto.

## A P P E A R A N C E S

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## ALSO PRESENT:

Arden Bolak, The Court Reporter  
Kevin Schaefer, The Videographer

## INDEX

## PAGE

Appearances	2
BENJAMIN HERNANDEZ	
Examination by Ms. Mackin	4
Examination by Ms. Silhan	42
Examination by Ms. Mackin	43
Signature and Changes	44
Reporter's Certificate	47

## EXHIBITS

NO.	DESCRIPTION	PAGE
1	Defendant's Notice of Deposition	Off Record.
2	Plaintiff's Original Complaint	17
3	Application for Renewal of TX DL RE: 12/20/2012	21
4	Application for Renewal of TX DL RE: 02/05/2008	23
5	Application for Renewal of TX DL RE: 09/11/2003	24
6	Application for Renewal of TX DL RE: 12/19/2001	26
7	Online Application	30
8	Letter To Honorable Carlos H. Cascos	35



P R O C E E D I N G S

THE COURT: We are on record at 10:28 a.m., May 18, 2017, start of DVD number 1. You may swear in the witness.

BENJAMIN HERNANDEZ,  
having been first duly sworn, testified as follows:

EXAMINATION

**Q. (BY MS. MACKIN) Good morning Mr. Hernandez, my name is Anna Mackin, we met just a moment ago; correct?**

A. Yes.

**Q. Okay.**

MS. MACKIN: Can I have the plaintiff's counsel introduce themselves on the record, please?

MS. SILHAN: Sure. Caitlyn Silhan from Waters & Kraus on behalf of the Plaintiff, Benjamin Hernandez.

MR. MIRZA: Hani Mirza with the Texas Civil Rights Project, on behalf of the plaintiff Benjamin Hernandez.

**Q. (BY MS. MACKIN) Mr. Hernandez, could you please speak and spell your name for the record?**

A. My name is Benjamin Hernandez; B-E-N-J-A-M-I-N,  
H-E-R-N-A-N-D-E-Z.

**Q. So I'm an attorney with the Texas Attorney General's Office and I represent the defendants in this case, the Secretary of State and the Director of the Department of Public Safety. I'd like to review some logistical matters before we get into the substantive questions; is that all right?**

1 That month he updated his driver's license address online and  
2 believed that his voter registration records were updated as  
3 well.

4 Did I read that correctly?

5 A. Yes.

6 Q. Okay. Why did you believe that your voter  
7 registration records were updated?

8 A. Well, because when I updated my -- my address on --  
9 on the website, I believe there was a little section that asked  
10 if I wanted to register to vote also at the address I was  
11 changing to. And I did make a notice on it and I thought  
12 that's all you had to do.

13 Q. Okay. Now, paragraph 47 mentioned someone named  
14 Jared Stringer. Do you know Mr. Stringer?

15 A. No, I don't.

16 Q. Okay. Paragraph 48 mentions a woman named  
17 T-O-T-Y-S-A Watkins. Do you know Ms. Watkins?

18 A. No.

19 Q. And in paragraph 49 mentions an individual named John  
20 Wood, do you know Mr. Wood?

21 A. No.

22 Q. Okay. All right. Thank you. You can set Exhibit 2  
23 aside. We might come back to it a little bit later, but just  
24 keep it handy. So now I'm going to ask you some questions  
25 about voting, and voter registration, and your experience with

1 those things.

2 What's the last time that you recall updating or  
3 attempting to update your voter registration information?

4 A. I've never had to update it. I registered to vote  
5 when I was 18 years old in Ector County. And that's the only  
6 time I actually registered to vote. And I've been a residence  
7 of Ector County since then so I never had to change. And I  
8 don't remember how I registered. So...

9 Q. Okay. That's fine. That was such a good answer.  
10 You already answered -- I had this long list of questions and  
11 you already took care of them. What if -- and of course I'm  
12 not asking how you voted or anything like that, but what's the  
13 last election that you recall voting in?

14 A. The last election?

15 Q. Uh-huh. The last time.

16 A. The general election, 2016.

17 Q. The federal general election?

18 A. The federal general, yes.

19 Q. What's the last time you remember voting before that?

20 A. It was probably the federal general election of 2008.

21 Q. Do you -- would you say that you vote regularly?

22 A. Every general election, at least.

23 Q. Do you consider yourself politically active?

24 A. Well, I vote.

25 Q. Sure.

1 A. Yes, it is.

2 Q. Okay. And can you please read question two into the  
3 record?

4 A. It says, If you are a U.S. citizen and eligible to  
5 vote, would you like to apply to register to vote?

6 Q. And how did you answer question two?

7 A. It is marked, No.

8 Q. And I presume you would have marked no for the same  
9 reasons that you marked no on your previous?

10 A. Yes.

11 Q. Okay. All right. I'm handing you -- actually, not  
12 quite yet.

13 All right. I'm not handing you anything yet.  
14 More to come. I'd like to ask you some questions about the  
15 change of address that you've sued my clients about when you  
16 moved from Ector County to Dallas County. Okay?

17 A. Okay.

18 Q. Why did you move from Ector County to Dallas County?

19 A. I retired from the city of Odessa in February, 2013  
20 and I moved up here to -- to Irving.

21 Q. What made you choose Irving?

22 A. My family was already here.

23 Q. And tell me about when you updated the address on  
24 your driver's license.

25 MS. SILHAN: Objection.

1 Q. (BY MS. MACKIN) In 2013, after you moved.

2 A. I just got online and decided change my address  
3 online, because I knew I had to.

4 Q. Why did you choose to do it online rather than going  
5 into a DPS office?

6 A. Convenience.

7 Q. Yeah. And so we touched on this briefly a little  
8 while ago, but you mentioned seeing some mention of voter  
9 registration when you were online; is that right?

10 A. Yes.

11 Q. What do you recall seeing?

12 A. There was a portion where I remember seeing if I --  
13 or asking the question if I wanted to register to vote. And I  
14 knew I need to register to vote in Dallas County, because of my  
15 move.

16 Q. When you went online in 2013 and changed your address  
17 from Ector County to Dallas County, did you sign anything?

18 A. I typed my name into the computer, basically. If  
19 that counts as a signature.

20 Q. So you didn't write anything down, it was all -- so  
21 it was all on the computer; is that right?

22 A. Yes.

23 Q. Okay. You've stated in your responses to some  
24 written discovery in this lawsuit that you believed that this  
25 online change of address updated your voter registration info,



1 right?

2 A. Yes.

3 Q. And I'm sorry if this is repetitive, I just want to  
4 make sure I have everything. What made you think that?

5 MS. SILHAN: Objection.

6 A. It was a question on the -- on the website. And  
7 that's what I wanted to do. That's what I needed to do.

8 Q. (BY MS. MACKIN) Do you recall whether you received  
9 an updated voter registration card in the mail with your Irving  
10 address, after you changed your address online?

11 A. No, I did not.

12 Q. You've also stated in response to written discovery  
13 in this case that based on your receipt of an updated driver's  
14 license, with your signature on it, you believed that your  
15 online change of address, and I'm quoting from the written  
16 responses here, quote "Caused your electronic signature to be  
17 reused by DPS."

18 What do you mean by that?

19 A. Could you ask that question again?

20 Q. Sure. So in response to some of our written  
21 questions, you've indicated that you believed your online  
22 change of address, quote "Caused your electronic signature to  
23 be reused by DPS." Close quote.

24 I'm trying to get a sense of what you mean by  
25 that.

1 pencil.

2 Q. Do you know how DPS got the signature that was on the  
3 updated driver's license that was mailed to you after your 2013  
4 online change of address?

5 A. I'm not sure, but I'm sure they reproduced it from my  
6 previous signature.

7 Q. Would you have provided that signature in the  
8 driver's license field office?

9 A. Yes.

10 Q. Okay. All right. Now I have a couple of questions  
11 about -- we don't have too much more. About when you first  
12 became aware that you were not registered to vote in Dallas  
13 County; okay?

14 A. Okay.

15 Q. So let's turn back to Exhibit 2, please. And  
16 paragraph 46, on page 11, all right. So the third sentence  
17 says, On Election Day 2014, Mr. Hernandez attempted to vote in  
18 Dallas County but was told his name was not on the role in  
19 Dallas County. Benjamin Hernandez cast a provisional ballot  
20 but later received notice his vote was not counted.

21 Did I read that properly?

22 A. Yes.

23 Q. Okay. So tell me about Election Day 2014. Did you  
24 go to a polling station?

25 A. Yes, I did.

1           **Q.    Do you remember which one?**

2           A.    It was the library, public library on McArthur in  
3 Valley Ranch, North Irving.

4           **Q.    And how did you determine that that's where you would**  
5 **go to cast your ballot?**

6           A.    I think there was information in the newspaper.

7           **Q.    And so what happened?**

8           A.    On election day, I went to the library and stood in  
9 line --

10          **Q.    Did you have to wait long?**

11          A.    I don't remember waiting very long time. And I  
12 handed the -- the poll vote volunteer my driver's license and  
13 they tried to look up my -- my name on the roles and they  
14 couldn't find it. And -- which I thought was kind of odd.

15                   And so they called the supervisor there, the  
16 poll supervisor, I talked to her and told her that I thought I  
17 had register, you know, online through DPS. And she tried to  
18 verify, or find my name. She couldn't find it either. And so  
19 she let me cast a provisional ballot. And she told me that --

20          **Q.    Let me stop you for a second, I'm sorry. Do you know**  
21 **what this woman you were talking about who tried to find you on**  
22 **the roles, do you know what she did? Do you know if she called**  
23 **anybody or checked with anybody?**

24          A.    She made a phone call, I don't know who she talked  
25 to.

1           **Q.    Okay.    Okay.    I'm sorry.**

2           A.    And then she allowed me to make a provisional ballot,  
3 handwritten ballot, and she told me that they would have to  
4 research it a little bit or -- check -- do a little more  
5 checking and they would let me know by mail to see if -- my  
6 vote was -- was going to be counted, if I was actually on the  
7 roles.

8                   I said, okay. So I went home. I completed the  
9 provisional ballot, I went home. And then I got a letter in  
10 the mail from Dallas County saying that they couldn't find my  
11 names on the role and that my vote couldn't be counted. So...

12           **Q.    Do you remember if you had to sign the provisional**  
13 **ballot?**

14           A.    I'm sure I did.

15           **Q.    Did they tell you anything else at the polling**  
16 **station on Election Day 2014?**

17           A.    Not that I remember right off. Nothing.

18           **Q.    All right.**

19           A.    Other than what I explained.

20           **Q.    Sure.    And let's go back to where -- where you said**  
21 **you received notice that your vote was not counted. Tell me**  
22 **about that.**

23           A.    It was just the letter I received from Dallas County.  
24 And it just informed me that my vote would not be counted  
25 because I wasn't a register voter in Dallas County.

1           **Q.    Okay.  Can you please read that paragraph into the**  
2 **record and verify whether everything is true and correct?**

3           A.    Mr. Hernandez moved to Dallas County from Ector  
4 County in February 2013.  That month he changed his address and  
5 attempted to update his voter registration online through DPS's  
6 website.  Mr. Hernandez received a new driver's license in the  
7 mail, but did not receive a voter registration card.

8                   On Election Day 2014, Mr. Hernandez attempted to  
9 vote in Dallas County, but was told his name was not on the  
10 roles.  He cast a provisional ballot but later received notice  
11 that his vote was not counted.

12           **Q.    And is that all true and correct?**

13           A.    Yes.

14           **Q.    Okay.  Thank you.  All right.  I just have a few more**  
15 **questions about your claims here.  Oh, and I'm sorry, I**  
16 **unintentionally misled you earlier, we are not done with**  
17 **Exhibit 2.  So let's pull that back out, please.  And I'd like**  
18 **to direct your attention to paragraph 25, which is on page 7.**  
19 **I'm sorry, I don't want to direct your attention to**  
20 **paragraph 25.  There's a different paragraph.**

21                   MS. SILHAN:  Would now be a good time for a  
22 quick break?

23                   MS. MACKIN:  Sure, that's fine.  I'm sorry.  I  
24 can't find.

25                   MS. SILHAN:  How about 5 minutes?



1 don't -- there's no way I can point to numbers. But if it can  
2 happen to me it could happen to somebody else. Of course,  
3 that's reasonable thinking.

4 **Q. (BY MS. MACKIN) Mr. Hernandez, are you currently**  
5 **registered to vote at the address where you reside?**

6 A. Yes.

7 **Q. How do you know?**

8 A. I have my voter registration card now. And I was  
9 able to vote last November.

10 **Q. If you move in the future, how do you think you would**  
11 **update your voter registration information?**

12 A. Manually.

13 **Q. What do you mean by manually?**

14 A. I can go to the post office, the courthouse, or  
15 wherever you go, write it down.

16 **Q. All right. Just a couple more questions to wrap up.**  
17 **How did you meet your lawyers in this case? I'm not asking for**  
18 **any legal advice or anything like that. Any legal strategy.**  
19 **Just, how you met them?**

20 A. What I recall, I received a letter in the mail -- I'm  
21 not sure how they got my name, and they -- the letter stated  
22 something they were aware of the situation. And I just called  
23 somebody.

24 **Q. Do you remember who you called?**

25 A. I can't remember exactly who it was that I talked to

1 THE VIDEOGRAPHER: Back on record 11:52.

2 EXAMINATION

3 Q. (BY MS. SILHAN) Okay. Mr. Hernandez, I just have a  
4 few follow-up questions and then we will be done. Before I get  
5 to those, I want to request an opportunity for Mr. Hernandez to  
6 be able to read and sign the transcript. Make sure that's on  
7 the record.

8 Okay. Ms. Mackin asked you about your voting  
9 history in the past and I believe you previously testified that  
10 you voted in 2008; is that correct?

11 A. Yes.

12 Q. Did you vote in any other elections after 2008?

13 A. Yes, 2012 and 2016.

14 Q. Okay. Did you attempt to vote in 2014?

15 A. Yes, in the -- I think it was for the governor in  
16 November 2014.

17 Q. And I believe Ms. Mackin asked you questions about  
18 the process of attempting to vote when you did attempt to vote  
19 in 2014. Do you remember that?

20 A. Yes.

21 Q. And in that process involved showing your driver's  
22 license and the poll volunteer checking the roles; is that  
23 correct?

24 A. Yes.

25 Q. Was that process -- did that work the same way in

1 Ector County when you voted in previous elections?

2 A. Yes.

3 Q. So you show them your -- your driver's license and  
4 they checked that you were on the roles and you were able to  
5 vote; is that correct?

6 A. Yes, the process was basically similar.

7 Q. Okay. When you moved from Ector County to Dallas  
8 County, that was in February 2013; is that correct?

9 A. Yes.

10 Q. And you -- you changed your address with DPS in June  
11 of 2013; is that correct?

12 A. Yes.

13 Q. Okay.

14 MS. SILHAN: No further questions from us at  
15 this time. We'll reserve for trial.

16 MS. MACKIN: And I just have one last thing.

17 EXAMINATION

18 Q. (BY MS. MACKIN) Mr. Hernandez, have I treated you  
19 professionally and with courtesy today?

20 A. Yes.

21 MS. MACKIN: Nothing further.

22 THE VIDEOGRAPHER: Off record 11:54.

23 (End of Proceedings.)  
24  
25

R E P O R T E R

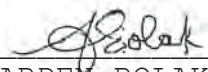
C E R T I F I C A T I O N

I, ARDEN BOLAK, a Shorthand Reporter,  
within and for the State of Texas, do hereby certify:

That BENJAMIN HERNANDEZ, the witness whose  
examination is hereinbefore set forth, was first duly sworn by  
me and that this transcript of said testimony is a true record  
of the testimony given by said witness.

I further certify that I am not related to  
any of the parties to this action by blood or marriage, and  
that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my  
hand to this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

  
ARDEN BOLAK, CSR  
Integrity Legal Support Solutions  
3100 W. Slaughter Ln. Suite A-101  
Austin, Texas 78748  
(512) 320-8690  
(512) 320-8692 (Fax)

# EXHIBIT 22



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,     )  
   )  
      Plaintiffs,                                     )  
   )  
vs.   ) CIVIL NO. 5:16-cv-00257  
   )  
ROLANDO PABLOS, IN HIS                             )  
OFFICIAL CAPACITY AS THE                             )  
TEXAS SECRETARY OF STATE,                             )  
AND STEVEN C. McCRAW, IN                             )  
HIS OFFICIAL CAPACITY AS                             )  
THE DIRECTOR OF THE TEXAS                             )  
DEPARTMENT OF PUBLIC                                     )  
SAFETY,   )  
   )  
      Defendants.   )

\*\*\*\*\*

ORAL VIDEOTAPED DEPOSITION

JARROD STRINGER

May 3, 2017

\*\*\*\*\*

ORAL VIDEOTAPED DEPOSITION OF JARROD STRINGER,  
produced as a witness at the instance of the Defendants  
and duly sworn, was taken in the above-styled and  
numbered cause on the 3rd day of May, 2017, from  
10:33 a.m. to 11:48 a.m., before April Balcombe,  
Certified Shorthand Reporter and Certified Realtime  
Reporter, in and for the State of Texas, reported by  
computerized stenotype machine at the offices of the  
Office of the Attorney General Consumer Protection

1 Division, San Antonio Regional Office, 115 East Travis  
2 Street, Suite 925, San Antonio, Texas 78205-1605,  
3 pursuant to the Federal Rules of Civil Procedure and the  
4 provisions stated on the record or attached hereto.  
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## APPEARANCES

## FOR PLAINTIFFS:

MS. BETH STEVENS  
MS. CASSANDRA CHAMPION  
Civil Rights Project  
1405 Montopolis Drive  
Austin, Texas 78741-3438  
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- and -

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## FOR DEFENDANTS:

MS. ANNE MARIE MACKIN  
Assistant Attorney General  
General Litigation Division  
Post Office Box 12548  
Austin, Texas 78711-2548  
Telephone: 512.463.2120  
Fax: 512.320.0667  
Email: anna.mackin@oag.texas.gov

## ALSO PRESENT:

Mr. Jarrod Stringer,  
the Witness; and  
Mr. Celso Cavaso,  
the Videographer; and  
Ms. April Balcombe,  
the Court Reporter.

## INDEX

## PAGE

JARROD STRINGER

Examination by Ms. Mackin .....6

Continued Examination by Ms. Mackin .....51

Signature Page .....52

Court Reporter's Certificate .....54

## EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
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Exhibit 1	Defendants' Notice of Deposition of Jarrod Stringer	18
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Exhibit 2	Plaintiffs' Original Complaint	18
-----------	--------------------------------	----

Exhibit 3	Texas Driver License & Identification Renewal Application	25
-----------	---	----

Exhibit 4	Information Form	27
-----------	------------------	----

Exhibit 5	Texas DPS Driver License Renewal and Change of Address	33
-----------	---	----

Exhibit 6	Notice to Confirm Voter Registration Address	39
-----------	---	----

Exhibit 7	Copy of Envelope	43
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Exhibit 8	Letter from Waters & Kraus dated October 23, 2015 to Ms. Mackin	44
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P-R-O-C-E-E-D-I-N-G-S

THE VIDEOGRAPHER: We are on the record.

Today's date is May the 3rd, 2017. The time is 10:33.

This is tape number one of the deposition of Jarrod

Stringer taken in the United District -- in the United

States District Court for the Western District of Texas,

San Antonio Division, in the matter of Jarrod Stringer

versus Rolando Pablos, et al. Case Number is

5-16-CV-00257. This deposition is being held in

San Antonio, Texas. My name is Celso Cavaso, the

videographer.

Will counsel please introduce themselves  
for the record?

MS. MACKIN: Anne Marie Mackin with the  
Texas Attorney General's Office on behalf of all  
defendants.

MS. STEVENS: Beth Stevens from the Texas  
Civil Rights Project on behalf of Mr. Stringer.

MS. SILHAN: Caitlyn Silhan from Waters &  
Kraus on behalf of Mr. Stringer.

MS. CHAMPION: Sandra Champion of the  
Texas Civil Rights Project on behalf of Mr. Stringer.

(Witness sworn).

MS. STEVENS: Just to get on the record,  
we would like to read and sign.



1 JARROD STRINGER,  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 QUESTIONS BY MS. MACKIN:

5 Q. Good morning, Mr. Stringer.

6 A. Good morning.

7 Q. Can you please speak and spell your name for  
8 the record?

9 A. Jarrod Stringer, J-A-R-R-O-D S-T-R-I-N-G-E-R.

10 Q. And we met just a few moments ago, right?

11 A. Yes.

12 Q. Well, my name is Anna Mackin. I am an attorney  
13 with the Texas Attorney General's Office, and I  
14 represent the defendants in this lawsuit, the Secretary  
15 of State, Rolando Pablos, and the Director of the Texas  
16 Department of Public Safety, Steven McCraw.

17 I am going to review some logistical  
18 matters before we start into the substantive questions.

19 Have you ever been deposed before?

20 A. No.

21 Q. Have you ever testified in court before?

22 A. No.

23 Q. Okay. So just a few things so that we can get  
24 an accurate record of everything that is said here  
25 today.

1 the other plaintiffs have filed this lawsuit?

2 MS. STEVENS: Objection. Form.

3 A. Could you rephrase the question?

4 Q. (BY MS. MACKIN) Sure. Sure. And I am not  
5 trying to be tricky or get you to say like a legal  
6 conclusion or anything.

7 A. Sure.

8 Q. I am just curious, if you were describing this  
9 lawsuit to a friend over dinner, how would you describe  
10 it?

11 A. I would say that this is about going online to  
12 change my address after a move, learning that I could  
13 also change my voter registration at the same time, and  
14 then finding out later that I really wasn't registered  
15 as I thought I was.

16 Q. Now, you just said learning that you could also  
17 change your voter registration at the same time. Where  
18 did you learn that information?

19 A. On the DPS website.

20 Q. Do you remember anything more specific about  
21 that?

22 A. In the process of changing my address, it asks  
23 me, would you like to register to vote with this change  
24 of address, or some version of that.

25 Q. Okay. And, again, just generally speaking --

1 A. Uh-huh.

2 Q. -- as if you were talking to a friend, and it's  
3 not going to hurt my feelings, what -- what do you think  
4 that my clients did wrong in this case?

5 MS. STEVENS: Objection. Form.

6 A. Could you rephrase the question, please?

7 Q. (BY MS. MACKIN) Sure.

8 So there is two defendants in this  
9 lawsuit. One of them is associated with the Secretary  
10 of State. He is the Secretary of State.

11 A. Uh-huh.

12 Q. And the other is Director of the Department of  
13 Public Safety, and so they're -- they kind of represent  
14 those two agencies.

15 So maybe a better question would be:  
16 What -- what do you think that the Department of Public  
17 Safety did wrong?

18 MS. STEVENS: Objection. Form.

19 A. Well, I -- I guess what I would say is that  
20 when I went online and registered, in that process, it  
21 appeared as if I had done the necessary steps to become  
22 a registered voter in Bexar County.

23 When I went to vote, I found out that I  
24 wasn't. And so when I called the county courthouse to  
25 find out what the situation was and they looked it up,

1 they said, well, you are not registered, but you can --  
2 you can vote for state elections.

3 And they said they had heard that other  
4 people who had tried to register the same way I had had  
5 had problems through DPS.

6 Q. (BY MS. MACKIN) And we'll -- I will ask you a  
7 little bit more about some of those details later on so  
8 we will come back to that.

9 A. Okay.

10 Q. How did you meet your lawyers in this case?

11 A. By phone.

12 Q. Who -- and I am not asking for any legal advice  
13 that they have given you.

14 A. Uh-huh.

15 Q. Who did you -- what attorney did you speak to  
16 first about this lawsuit?

17 A. I don't remember the order.

18 Q. Okay.

19 A. Yeah.

20 Q. Do -- do you remember whether you contacted  
21 your attorneys or whether they contacted you?

22 A. They contacted me.

23 Q. And about when was that?

24 A. I don't remember.

25 Q. Okay. Had you ever met any of your lawyers

1 Q. Okay. Now I want to talk about the voter  
2 registration issue that you sued my clients about when  
3 you moved from Arlington to San Antonio.

4 Why did you move?

5 A. My wife got into law school at St. Mary's.

6 Q. And do you remember the approximate date that  
7 you moved?

8 A. We moved on August the 1st.

9 Q. And at that point you decided to update the  
10 address on your driver license?

11 A. Yes.

12 Q. Okay. Tell me about that.

13 A. Well, we moved here in Austin, and shortly  
14 thereafter, I -- as you can see from my history, I've  
15 moved several times. I am getting more accustomed to  
16 trying to do that more quickly. So I -- we had to get  
17 wi-fi first. But I forgot wi-fi now, so I went online  
18 in my office and filled out the form.

19 Q. Is there a reason you chose to do it online?

20 A. Convenience.

21 Q. Do you recall anything about voter  
22 registration?

23 A. I remember there being a box I could check if I  
24 wanted to get registered.

25 Q. Do you recall anything else?



1           **Q.**     Okay. Now I want to talk about the voter  
2 registration issue that you sued my clients about when  
3 you moved from Arlington to San Antonio.

4                   **Why did you move?**

5           A.     My wife got into law school at St. Mary's.

6           **Q.**     And do you remember the approximate date that  
7 you moved?

8           A.     We moved on August the 1st.

9           **Q.**     And at that point you decided to update the  
10 address on your driver license?

11          A.     Yes.

12          **Q.**     Okay. Tell me about that.

13          A.     Well, we moved here in Austin, and shortly  
14 thereafter, I -- as you can see from my history, I've  
15 moved several times. I am getting more accustomed to  
16 trying to do that more quickly. So I -- we had to get  
17 wi-fi first. But I forgot wi-fi now, so I went online  
18 in my office and filled out the form.

19          **Q.**     Is there a reason you chose to do it online?

20          A.     Convenience.

21          **Q.**     Do you recall anything about voter  
22 registration?

23          A.     I remember there being a box I could check if I  
24 wanted to get registered.

25          **Q.**     Do you recall anything else?

1 A. No.

2 Q. That day that you went online to change your  
3 address, did you sign anything?

4 A. No.

5 Q. Did you write anything down?

6 A. Can you --

7 Q. Sure.

8 In connection with the change that you  
9 made to your address --

10 A. Uh-huh.

11 Q. -- did you write anything down?

12 A. Write anything down where?

13 Q. Anywhere.

14 A. I am not sure I understand.

15 Q. When you asked -- well, you didn't ask.

16 When you told DPS that you had moved using  
17 the online interface, did you write anything down, or  
18 was it all done by computer?

19 A. It was all online.

20 Q. And then you said that you believed this  
21 updated your voter registration information as well?

22 A. Correct.

23 Q. And you believed that because -- well, I don't  
24 want to testify for you. Why did you believe that?

25 A. It asked me if I would like to register to

1 vote, and I said yes.

2 Q. Okay.

3 MS. MACKIN: We're on 5?

4 MS. STEVENS: (Nodding head).

5 (Exhibit 5 marked).

6 Q. (BY MS. MACKIN) I am handing you what I am  
7 marking as Exhibit 5. Please take all the time you need  
8 to review it and let me know when you are ready to  
9 discuss it.

10 MS. STEVENS: For the record, there is a  
11 front and a back page.

12 A. (Witness reviews document.)

13 Okay.

14 Q. (BY MS. MACKIN) All right. I'd like to direct  
15 your attention to page 2.

16 Well, first of all, do you recognize this  
17 document?

18 A. No.

19 Q. Okay. I am going to represent to you that this  
20 was filed as an exhibit to the complaint that your  
21 attorneys filed on your behalf in this lawsuit. Does  
22 that sound right, given that you reviewed the complaint  
23 before it was filed?

24 MS. STEVENS: Objection. Form.

25 A. I didn't know anything about it.

1 Q. Okay. I am going to represent to you that it  
2 is a letter that your attorneys sent to me in connection  
3 with this lawsuit. And the second paragraph appears to  
4 describe your experience with the voter registration  
5 process in 2014. Is that a fair characterization?

6 A. Yes.

7 Q. Okay. So in the second sentence of that  
8 paragraph, it says that you attempted to vote early in  
9 November 2014 but were told by poll workers at UTSA that  
10 your name were not -- was not on the rolls.

11 Can you tell me a little bit more about  
12 that?

13 A. Sure.

14 Arrived to early voting. There was a  
15 short line. As I was waiting in line, I noticed that  
16 there were people in front of me who the -- the  
17 volunteers or the voter -- the voting booths kept making  
18 phone calls, and I was like, Oh, I wonder what that is.

19 And so I got up front and they asked me  
20 for my license, typed me into the computer that they  
21 have. When they didn't get, I guess whatever results  
22 they were expecting, they -- they did for me what they  
23 had done for other people; they had called to confirm, I  
24 guess, with some office that I was or wasn't enrolled.

25 Q. Do you know who they called?

1 A. I don't know.

2 **Q. That's okay.**

3 A. Yeah. I don't know.

4 And then they said, Well, we are sorry,  
5 you are not registered at this time.

6 **Q. In Bexar County?**

7 A. I don't know if they said that. I am assuming.  
8 I mean, I couldn't even vote for federal early, so I  
9 don't know what their exact language was.

10 **Q. Okay. So other than telling you that you could**  
11 **only vote in the statewide election that day --**

12 A. They didn't tell me that that day.

13 **Q. Oh, I see. When did you learn that?**

14 A. When I called the Bexar County Courthouse.

15 **Q. And when you called the Bexar County**  
16 **Courthouse, did they tell you anything else?**

17 A. They told me that they -- I could only vote on  
18 the day -- on that Tuesday or whatever it was, the day  
19 of the election, right; that I couldn't vote any other  
20 time; that I could only vote downtown at the downtown  
21 location; and that they had other people who had had  
22 problems registering to vote through DPS.

23 **Q. And so just -- I just want to be clear, poll**  
24 **workers at UTSA and the person you spoke with at Bexar**  
25 **County mentioned problems at DPS, or was it --**



1 A. No, no. The -- the -- at UTSA, they only told  
2 me I wasn't able to vote that day. That's all they --  
3 the information they gave me.

4 Q. So the call they made was just to check your  
5 status?

6 A. Yes, yes.

7 Q. Okay.

8 A. And so the -- when I called Bexar County, they  
9 were the ones that told me there had been other  
10 problem -- people who had problems through DPS  
11 registering.

12 Q. Okay. Okay. Did they tell you when you called  
13 Bexar County anything else about any -- anything else  
14 that you recall?

15 A. The only thing I remember is -- were the DPS  
16 and that I could vote on the day of the election and  
17 only for statewide elections.

18 Q. Okay. Did they tell you anything about any  
19 other county?

20 A. No, not that I recall.

21 Q. Let's jump back to UTSA for a second.

22 A. Sure.

23 Q. Did any individuals there mention anything to  
24 you about a web portal or submitting any kind of inquiry  
25 on your behalf that you recall?

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al., )  
)  
Plaintiffs, )  
)  
vs. ) CIVIL NO. 5:16-cv-00257  
)  
ROLANDO PABLOS, IN HIS )  
OFFICIAL CAPACITY AS THE )  
TEXAS SECRETARY OF STATE, )  
AND STEVEN C. McCRAW, IN )  
HIS OFFICIAL CAPACITY AS )  
THE DIRECTOR OF THE TEXAS )  
DEPARTMENT OF PUBLIC )  
SAFETY, )  
)  
Defendants. )

\*\*\*\*\*

REPORTER'S CERTIFICATE

ORAL VIDEOTAPED DEPOSITION OF JARROD STRINGER

May 3, 2017

\*\*\*\*\*

I, April Balcombe, Certified Shorthand Reporter in  
and for the State of Texas, hereby certify to the  
following:

That the witness, JARROD STRINGER, was duly sworn  
and that the transcript of the deposition is a true  
record of the testimony given by the witness;

That the original deposition was delivered to Ms.  
Mackin, Custodial Attorney;

1 That a copy of this certificate was served on all  
2 parties and/or the witness shown herein on  
3 \_\_\_\_\_, 2016.

4 I further certify pursuant to FRCP Rule 30(f)(1)  
5 that the signature of the deponent:

6 \_\_\_\_ was requested by the deponent or a party before  
7 the completion of the deposition and that the signature  
8 is to be before any notary public and returned within 30  
9 days (or \_\_\_\_ days per agreement of counsel) from the  
10 date of receipt of the transcript.

11 If returned, the attached Changes and Signature  
12 Page contains any changes and the reasons therefore:

13 \_\_\_\_ was not requested by the deponent or a party  
14 before the completion of the deposition.

15 That the amount of time used by each party at the  
16 time of the deposition is as follows:

17 Ms. Mackin (1h3m)

18  
19 Attorney for Defendants  
20

21 That pursuant to information given to the  
22 deposition officer at the time said testimony was taken,  
23 the following includes counsel for all parties of  
24 record:  
25

1 FOR PLAINTIFFS:

2 MS. BETH STEVENS  
3 MS. CASSANDRA CHAMPION  
4 Civil Rights Project  
5 1405 Montopolis Drive  
6 Austin, Texas 78741-3438  
7 Telephone: 512.474.5073  
8 Email: beth@texascivilrightsproject.org  
9 Email: champion@texascivilrightsproject.org

10 - and -

11 MS. CAITLYN SILHAN  
12 Waters & Kraus, LLP  
13 3141 Hood Street, Suite 700  
14 Dallas, Texas 75219  
15 Telephone: 214.357.6244  
16 Email: csilhan@waterskraus.com

17 FOR DEFENDANTS:

18 MS. ANNE MARIE MACKIN  
19 Assistant Attorney General  
20 General Litigation Division  
21 Post Office Box 12548  
22 Austin, Texas 78711-2548  
23 Telephone: 512.463.2120  
24 Fax: 512.320.0667  
25 Email: anna.mackin@oag.texas.gov

18 That \$\_\_\_\_\_ is the deposition officer's charges  
19 to the Defendants for preparing the original deposition  
20 and any copies of exhibits;

21 I further certify that I am neither counsel for,  
22 related to, nor employed by any of the parties in the  
23 action in which this proceeding was taken, and further  
24 that I am not financially or otherwise interested in the  
25 outcome of this action.

1 Certified to by me on this \_\_\_\_\_ day of

2 \_\_\_\_\_, \_\_\_\_\_.

3  
4  
5  
6  


7 April Balcombe, CSR, CRR, CRC  
8 Integrity Legal Support Solutions  
9 3100 W. Slaughter Lane, Suite A-101  
10 Austin, Texas 78748  
11 (512) 320-8690  
12 (512) 320-8692 (fax)  
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# EXHIBIT 23

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, ET AL.,     )  
    Plaintiffs,                 )  
                                  )  
vs.                             ) CIVIL NO. 5:16-cv-00257  
                                  )  
ROLANDO PABLOS, IN HIS        )  
OFFICIAL CAPACITY AS THE     )  
TEXAS SECRETARY OF STATE     )  
AND STEVEN C. MCCRAW, IN     )  
HIS OFFICIAL CAPACITY AS     )  
THE DIRECTOR OF THE TEXAS     )  
DEPARTMENT OF PUBLIC         )  
SAFETY,                        )  
    Defendants.                 )

ORAL VIDEOTAPED DEPOSITION  
JOHN WOODS  
MAY 5, 2017

ORAL VIDEOTAPED DEPOSITION OF JOHN WOODS, produced  
as a witness at the instance of the Defendants and duly  
sworn, was taken in the above-styled and numbered cause  
on the 5th day of May, 2017, from 10:26 a.m. to  
12:54 p.m., before Dana Richardson, Certified Shorthand  
Reporter in and for the State of Texas, reported by  
computerized stenotype machine at the Office of Attorney  
General Consumer Protection Division Houston Regional  
Office, 808 Travis, Suite 1520, Houston, Texas  
77002-1702, pursuant to the Federal Rules of Civil  
Procedure and the provisions stated on the record or  
attached hereto.

APPEARANCES

FOR PLAINTIFFS:

Ms. Beth Stevens  
TEXAS CIVIL RIGHTS PROJECT  
1405 Montopolis Drive  
Austin, Texas 78741  
Telephone: (512) 474-5073  
E-mail: beth@texascivilrightsproject.org

- and -

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Austin, Texas 78711-2548  
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Fax: (512) 320-0667  
E-mail: anna.mackin@oag.texas.gov

ALSO PRESENT:

Ms. Myra Thetford, Videographer

## EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1	Defendants' Notice of Deposition of John Woods	5
Exhibit 2	Plaintiff's Original Complaint	24
Exhibit 3	Application for Renewal/Replacement/Change of a Texas Driver License or Identification Card, John Woods, 1/30/2017	36
Exhibit 4	Application for Renewal/Replacement/Change of a Texas Driver License or Identification Card, John Woods, 12/13/13	39
Exhibit 5	Information Form, DL-43, 7/28/09	42
Exhibit 6	Application for Texas Driver License or Identification Card, John Woods, August 22, 2007	44
Exhibit 7	Texas Department of Public Safety, Receipt of Surrendered License, August 22, 2007	47
Exhibit 8	Driver License Renewal and Change of Address, printed from Texas.gov	50
Exhibit 9	November 18, 2015, letter from Peter A. Kraus to Anne Marie Mackin	60
Exhibit 10	E-mail string with top e-mail dated April 6, 2017, from John Woods to Beth Stevens	68

EXHIBITS (cont.)

EXHIBIT	DESCRIPTION	PAGE
Exhibit 11	May 26, 2015, letter from Beth Fischer to Dr. John Woods	70
Exhibit 12	Printout from Facebook	76



1 (Exhibit 1 marked)

2 THE VIDEOGRAPHER: This is the videotaped  
3 deposition of John Woods taken on behalf of the  
4 plaintiff -- I'm sorry, taken on behalf of the defendant  
5 in the matter of Jarrod Stringer, et al., versus Rolando  
6 Pablos, et al., Civil Action No. 5:16-cv-00257, for the  
7 United States District Court, Western District of Texas,  
8 San Antonio Division, held in the offices of the  
9 Attorney General's Houston Regional Office at  
10 808 Travis, Suite 1520, in Houston, Texas 77002.

11 The videographer's name is Myra Thetford.  
12 The court reporter's name is Dana Richardson.

13 This is beginning of Tape No. 1. Today's  
14 date is May 5th, 2017. We are on the record at  
15 10:26 a.m.

16 Would counsel please introduce themselves  
17 for the record.

18 MS. MACKIN: Anna Mackin with the Attorney  
19 General's Office on behalf of all defendants.

20 MS. STEVENS: Beth Stevens from the Texas  
21 Civil Rights Project on behalf of Plaintiff John Woods.

22 MS. SILHAN: Caitlyn Silhan from Waters &  
23 Kraus on behalf of Plaintiff John Woods.

24 \*\*\*

25 \*\*\*

1 JOHN WOODS,  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MS. MACKIN:

5 Q. Good morning, Mr. Woods.

6 A. Good morning.

7 Q. If you wouldn't mind please speaking and  
8 spelling your name for the record.

9 A. Yes. It's John Woods. J-o-h-n. W-o-o-d-s.

10 Q. Thank you.

11 My name is Anna Mackin, and I am an  
12 attorney with the Texas Attorney General's Office. I  
13 represent the defendants in this case, the Secretary of  
14 State of Texas, Rolando Pablos, and the director of the  
15 Department of Public Safety, Steven McCraw.

16 I'm going to review some logistical  
17 matters before we get started on the questions. Have  
18 you ever been deposed before?

19 A. No.

20 Q. Okay. Have you ever testified in court before?

21 A. No.

22 Q. So just a couple of things to help the court  
23 reporter get an accurate record of everything that's  
24 being said here today. If you could try to give a  
25 verbal answer to my questions as opposed to nodding or

1 **places, just -- it's about how it's --**

2 A. That's my understanding.

3 Q. Okay. And so, again, I'm not asking for, like,  
4 a legal conclusion or anything like that and you're not  
5 going to hurt my feelings, but what do you think that my  
6 client, the Department of Public Safety, did wrong in  
7 this case?

8 A. I think that DPS gave me the impression that in  
9 updating my driver's license address online and checking  
10 that box I was changing my voter registration address,  
11 when, in fact, I needed to do some separate set of steps  
12 in order to actually change my voter registration  
13 address as well.

14 Q. Okay. And then as far as the Texas Secretary  
15 of State, my other client, what did they do wrong in  
16 this case?

17 MS. STEVENS: Objection, form.

18 Q. (BY MS. MACKIN) Just your understanding, not a  
19 legal conclusion.

20 A. Can you explain a little bit more, also going  
21 back to the previous question, what you mean by "wrong"?

22 Q. Yeah. So you sued --

23 A. Uh-huh.

24 Q. -- the lead officers of the Department of  
25 Public Safety --

1 gentleman named Jarrod Stringer. Do you know

2 Mr. Stringer?

3 A. No.

4 Q. Okay. 48 mentions a woman, Ms. Watkins. Her  
5 first name is spelled T-o-t-y-s-a. I'm not sure how to  
6 pronounce it.

7 A. I think I'd remember somebody with that name.

8 Q. So you don't know her?

9 A. Correct.

10 Q. Okay. And then Paragraph 49 mentions John  
11 Woods. That's you?

12 A. Yes.

13 Q. Okay. In the second sentence of  
14 Paragraph 49 --

15 A. Uh-huh.

16 Q. -- it says: "In September 2015, Dr. Woods  
17 changed his driver's license address online, and  
18 believed that his voter registration records were  
19 updated as well."

20 Did I read that right?

21 A. Yes.

22 Q. And why did you believe that your voter  
23 registration records were updated in September of 2015?

24 A. Because I knew from experience -- or thought I  
25 knew from experience that when you change your driver's

1 license address online you can also check a box that  
2 will change your voter registration address. That  
3 experience comes both from Virginia, where that is the  
4 case, and Texas, where it seems not to be the case,  
5 but --

6 **Q. Tell me what you remember about Virginia.**

7 A. Can you be more specific?

8 **Q. Sure. You said that your experience in**  
9 **Virginia was part of the reason that you believed that**  
10 **your voter registration records were updated after**  
11 **changing your driver's license address online --**

12 A. Yes.

13 **Q. -- in Texas.**

14 A. Uh-huh.

15 **Q. So I'm asking what you remember about Virginia**  
16 **that informed your beliefs about Texas.**

17 A. Yeah. So my experience in Virginia was that  
18 they made it pretty difficult for you to vote in the  
19 town where you attended college.

20 **Q. Who is "they"?**

21 A. The state, commonwealth. And -- and so at some  
22 point, I changed my driver's license address to my  
23 university address so that -- and also with my voter  
24 registration address so that I could vote locally. And  
25 upon changing my driver's license address, I was, in

1 **questions.**

2 A. Yes.

3 **Q. I'm not -- I'm not trying to trick you. I'm**  
4 **just trying to get a list.**

5 A. Yeah, sure, sure, uh-huh.

6 **Q. When you moved to Austin, where did you first**  
7 **attempt to register or believe that you had registered**  
8 **to vote in Texas?**

9 A. Yeah, that would be the -- the DPS office, I  
10 think, on Burnett.

11 **Q. Okay.**

12 A. Is it on Burnett? It's either Burnett or the  
13 road next to it.

14 **Q. Uh-huh. The one up by, like, 45, kind of?**

15 A. I think it's, like, 51st or something.

16 **Q. Yeah, yeah.**

17 A. It's like 5050 or something like that.

18 **Q. Yeah. But that was in person at that office**  
19 **that you first registered and --**

20 A. Yes.

21 **Q. -- or first believed you registered in Texas?**

22 A. Yes.

23 **Q. Okay. And subsequent to that, were you ever**  
24 **able to vote in Texas?**

25 A. Yes.



1 when changing his address online at  
2 www.txdps.state.tx.us.

3 That attempt to update voter registration  
4 information, what is that referring to?

5 A. To update my voter address from Travis County  
6 to Harris County.

7 Q. Okay. And the next paragraph, I just want to  
8 go through this bit by bit to get a little bit more  
9 information about the -- the facts in here.

10 A. Okay.

11 Q. So the first sentence: "Mr. Woods moved from  
12 Travis County to Harris County in June 2015."

13 That's actually, though, referring to --  
14 you physically moved from Morgantown, but you -- your  
15 address registered on your driver license was from  
16 Travis to Harris, even though your person was from West  
17 Virginia to Harris; is that right?

18 A. Yes.

19 Q. Okay.

20 A. I mean, I spent a lot of time in Austin --

21 Q. Yeah. And I'm not --

22 A. -- even when I was in Morgantown.

23 Q. I'm not saying that you were, like, lying or  
24 trying to trick anybody. I just want it to be clear in  
25 the record because I was a little bit confused when I

1 saw the letter to you in West Virginia and about just  
2 where everything was. So not a problem.

3 The second sentence: "In September 2015,  
4 Mr. Woods changed his driver's license address online,  
5 and believed that his voter registration records were  
6 updated as well."

7 Is that referring to the transaction that  
8 we've spent a lot of today talking about?

9 A. Yes.

10 Q. Okay. And then it says: "Shortly thereafter,  
11 Mr. Woods went to a local library, where he was offered  
12 an opportunity to register to vote. He declined that  
13 opportunity, however, because he believed that his voter  
14 registration records had already been updated."

15 Can you tell me a little bit more about  
16 your visit to the library that's referenced in this  
17 sentence?

18 A. Sure. I went with my friend Deb. She was, I  
19 think, dropping some -- she's also my roommate. She was  
20 dropping some stuff off, picking some stuff up. I think  
21 I checked out a book. In the process of checking out a  
22 book, the librarian said, "Would you like to register to  
23 vote?"

24 And I said, "No, I did it when I changed  
25 my driver's license address."

1           Q.     And then the next sentence: "Mr. Woods called  
2 Harris County on Election Day 2015, trying to identify  
3 his polling location."

4                     Do you remember what date Election Day  
5 2015 was?

6           A.     November -- first Tuesday of November.

7           Q.     How did you know who to call to identify your  
8 polling location?

9           A.     I think that information is available on the  
10 internet.

11          Q.     So that's probably --

12          A.     I probably Googled it.

13          Q.     And then the next sentence says that you were  
14 informed that you were not registered in Harris County  
15 but were still registered in Travis County and that any  
16 provisional ballot cast in Harris County would likely  
17 not be counted.

18                     Did they tell you anything else or --  
19 I'm -- I'm sorry. I made an assumption. It says that  
20 you were informed.

21          A.     Yeah, I don't know that it was during that  
22 phone call that I was informed. I think I -- I think  
23 they told me I was not registered in Harris County  
24 during that phone call. And I said, "Can I fill out a  
25 provisional ballot?"

1 And they said, "Yes, but it probably won't  
2 be counted."

3 And then I went to the polling place,  
4 and -- and -- and they verified there that I was not  
5 registered in Harris County. They may or may not have  
6 looked up my registration and told me it was Travis  
7 County, but I think at that point I inferred that my  
8 address and my registration had not be changed and so it  
9 was in Travis County.

10 **Q. Do you remember what the local polling location**  
11 **that you visited that day was?**

12 A. Not the exact address --

13 **Q. Sure.**

14 A. -- but it is in Third Ward or near Third Ward.

15 **Q. And if you were describing where that's located**  
16 **to someone who's not familiar with Houston, how would**  
17 **you describe it?**

18 A. Near Texas Southern University. So not far  
19 from downtown, to the south, southwest of downtown.

20 **Q. And you identified that as your polling**  
21 **location based on the address where you resided at the**  
22 **time?**

23 A. Yes.

24 **Q. Okay.**

25 A. And it would have been the same polling place

1 between my Ruth Street address and -- oh, yeah, yeah.  
2 So that -- that was also my -- that should also be my  
3 polling place now --

4 **Q. Okay.**

5 **A. -- my current address.**

6 **Q. And then it says here: "On November 17th,**  
7 **Mr. Woods was informed by the county clerk that his**  
8 **provision ballot was not counted."**

9 **How did the clerk inform you of this**  
10 **information?**

11 **A. I received a letter in the mail.**

12 **Q. And specific -- oh, sorry, it says "by the**  
13 **county clerk."**

14 **And that address was sent to -- sorry,**  
15 **that letter was sent to the address where you were**  
16 **residing at the time?**

17 **A. I don't recall. I -- I -- I think so. I don't**  
18 **even remember the date of that. I just remember getting**  
19 **a letter in the mail.**

20 **Q. Okay. And then what did you do?**

21 **A. By then I had already, I think, done most of**  
22 **the things that are consequential.**

23 **Q. What do you mean when you say "the things that**  
24 **are consequential"?**

25 **A. Yeah, I mean, so when I went to the polling**

1 place and I cast a provisional ballot, probably the very  
2 next thing I did was go on Facebook and vent about not  
3 being able to vote for a second time, at which point a  
4 friend put me in touch with -- with my attorneys.

5 **Q. Okay. So correct me if I'm mischaracterizing**  
6 **this because I'm not trying to. I'm just trying to get**  
7 **everything clear.**

8 A. Okay.

9 **Q. When you went to your local polling location**  
10 **and cast a provisional ballot, did you believe that it**  
11 **likely would or likely would not be counted?**

12 A. I was told by the person at the polling place  
13 that it was unlikely that it would be counted.

14 **Q. Did the person at the polling place tell you**  
15 **anything else about that?**

16 A. That the act of filling out a provisional  
17 ballot would update my voter registration address  
18 finally.

19 **Q. After you filled out the provisional ballot, do**  
20 **you recall if you received a new voter registration card**  
21 **within 60 days after that?**

22 A. I don't recall.

23 **Q. Do you remember if you received an updated**  
24 **voter registration card after that?**

25 A. I have gotten one since then at some point



1 STATE OF TEXAS  
2 COUNTY OF HARRIS

3 REPORTER'S CERTIFICATE

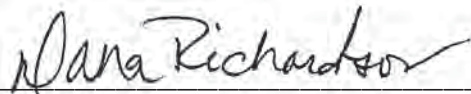
4 I, Dana Richardson, a Certified Shorthand Reporter  
5 in and for the State of Texas, do certify that this  
6 deposition transcript is a true record of the testimony  
7 given by the witness named herein, after said witness  
8 was duly sworn by me. The witness was requested to  
9 review the deposition.

10 I further certify that I am neither attorney or  
11 counsel for, related to, nor employed by any parties to  
12 the action in which this testimony is taken and,  
13 further, that I am not a relative or employee of any  
14 counsel employed by the parties hereto or financially  
15 interested in the action.

16 I further certify that the amount of time used by  
17 each party at the deposition is as follows:

18 Ms. Anne Marie Mackin - 02:05  
19 Ms. Beth Stevens - 00:00

20 SUBSCRIBED AND SWORN TO under my hand and seal of  
21 office on this the 19th day of May, 2017

22   
23 \_\_\_\_\_


24 Dana Richardson, RPR, TX CSR  
25 Integrity Legal Support Solutions  
3100 W. Slaughter Lane, Suite A-101  
Austin, Texas 78748  
(512) 320-8690  
(512) 320-8692 (fax)

# Exhibit B

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

MAY 10 2018

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY CLERK

JARROD STRINGER, et. al.

v.

ROLANDO PABLOS, in his official  
capacity as Texas Secretary of State  
and STEVEN C. McCRAW, in his official  
capacity as Director of the Texas Department  
of Public Safety

CIVIL NO. SA-16-CA-257-OG

**ORDER**

Pending before the Court is Plaintiffs' Motion for Summary Judgment (docket no. 77) and also Defendants' Motion for Summary Judgment (docket no. 82). The parties have filed responses (docket nos. 85, 88) and replies (docket nos. 87, 89). The Court has reviewed the record and the applicable law, and finds that Plaintiffs' motion should be granted and Defendants' motion should be denied.

I.

Statement of the case

This case concerns Texas's compliance with the National Voter Registration Act (NVRA) (also known as the "motor voter law"), 52 U.S.C. § 20501, et. seq., which was enacted in 1993 under the Elections Clause to make the voter registration process easier and more convenient, thus increasing voter registration and participation.<sup>1</sup> The only six states exempt from

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<sup>1</sup>See 52 U.S.C. § 20501(b)(1) ("to establish procedures that will increase the number of eligible citizens who register to vote").

its requirements are those that have no voter registration or allow election day voter registration at the polls.<sup>2</sup> Texas is not one of them.<sup>3</sup>

## II.

### Applicable standard

Summary judgment is proper when the evidence shows “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250-52 (1986). Rule 56 “mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails . . . to establish the existence of an element essential to that party’s case, and on which that party will bear the burden of proof at trial.” *Curtis v. Anthony*, 710 F.3d 587, 594 (5th Cir. 2013) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986)).

The Court must draw reasonable inferences and construe evidence in favor of the nonmoving party. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). Although the evidence is viewed in the light most favorable to the nonmoving party, a nonmovant may not rely on “conclusory allegations, unsubstantiated assertions, or only a scintilla of evidence” to create a genuine issue of material fact sufficient to survive summary judgment. *Freeman v. Tex. Dep’t of Criminal Justice*, 369 F.3d 854, 860 (5th Cir. 2004).

## III.

### The claims, defenses, and underlying facts

Plaintiffs are eligible Texas voters who engaged in NVRA-covered online driver’s license transactions but were denied simultaneous voter registration applications and thereafter

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<sup>2</sup>52 U.S.C. § 20503(b)

<sup>3</sup>See <https://www.justice.gov/crt/national-voter-registration-act-1993-nvra>

disenfranchised. They assert that the State of Texas, by and through the Department of Public Safety and the Secretary of State, engages in a practice that deprives Texans of their federal right to register to vote or update their voter registration simultaneously with their online driver's license renewal and change of address transactions. Plaintiffs allege that this practice, dating back several years, violates the NVRA and Equal Protection clause. Although advised of the violation, and admittedly able to change its practice and procedure, the State of Texas has refused to integrate voter registration into its online driver's license renewal and change of address process to ensure compliance with federal law.

Plaintiffs seek summary judgment on their claims that Defendants' online process violates the NVRA and Equal Protection clause. They also seek summary judgment on Defendants' affirmative defenses, including immunity, standing, and mootness.

Defendants admit that the key facts of this case are undisputed<sup>4</sup> and essentially argue that state law prevents them from complying with federal law. Defendants seek summary judgment on the following grounds: Article III standing, statutory standing, mootness, and on the merits – based on their interpretation of the NVRA, state election law, and the Equal Protection clause.

The parties have stipulated to the following facts:

1. Defendant Rolando Pablos is the Texas Secretary of State ("SOS") and, under Texas Election Code §31.001(a), serves as the State's Chief Election Officer.

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<sup>4</sup>The Court has taken judicial notice of the evidence attached to Plaintiffs' Request for Judicial Notice (docket no. 93). Defendants did not oppose the Court taking judicial notice of the official government web pages cited in the order. Defendants did question the relevancy of exhibit A-6, which is simply a hard copy of screen shots that may be found on the official government website in question. The Court considered the screen shots in exhibit A-6 that are relevant to the issues herein and consistent with the undisputed evidence in the record. Many of the documents attached to Plaintiffs' Request for Judicial Notice are in other parts of the record with no objection thereto.

2. Defendant Steven C. McCraw is the Director of the Texas Department of Public Safety (“DPS”). DPS operates offices around the State and issues Texas driver’s licenses. All references to “driver’s licenses” herein refer to Texas driver’s licenses issued by DPS.
3. DPS is responsible for transmitting information to SOS about eligible driver’s license applicants who – during covered driver’s license transactions with DPS – indicate they wish to (1) register to vote, or (2) update their voter registration information. This information is transmitted by DPS to SOS in the voter registration extract file.
4. Plaintiffs Jarrod Stringer, Benjamin Hernandez, and John O. Woods, III (collectively, “Plaintiffs”) changed their addresses on their DPS-issued driver’s licenses through online transactions on Texas.gov.
5. Plaintiffs’ counsel sent the Secretary of State letters dated May 27, 2015, October 23, 2015, and November 18, 2015, describing the change of address transactions in paragraph 4, and stating their allegation that DPS’s and SOS’s handling of these transactions violated the National Voter Registration Act.
6. Among other requirements, an applicant must be a U.S. citizen to be eligible to renew his driver’s license or change the address on his driver’s license online.
7. An applicant completing an online transaction to renew his driver’s license must enter his driver’s license number, date of birth, the last four digits of his social security number, and the audit number on his driver’s license.
8. An applicant completing an online transaction to change the address on his driver’s license – or an applicant who changes the address on his driver’s license when renewing it online – must enter his driver’s license number, date of birth, the last four digits of his social security number, the audit number on his driver’s license, his home address (street,



city, state, zip code, and county) and, if different than his home address, his mailing address (street, city, state, zip code, county, and country).

9. The voter registration application on the SOS voter website is found here:  
<https://webservices.sos.state.tx.us/vrapp/index.asp>
10. Between April 2013 and February 26, 2016, Step 5 of the online renewal and change of address interface prompted the applicant to select “yes” or “no” beneath the statement “I want to register to vote. Selecting ‘yes’ **does not** register you to vote. A link to the [SOS] voter website (where a voter application may be downloaded or requested) will be available on your receipt page.” (emphasis original)
11. The signature that appears on the license generated as a result of a customer’s online driver’s license renewal or change of address transaction is an image of the applicant’s physical signature, electronically captured during the applicant’s most recent in-person transaction in a DPS field office. (On the DL-14A and DL-43 forms this is referred to as the applicant’s “electronic signature”).
12. Plaintiffs did not submit a change of address that relates to a Texas driver’s license in person during the change of address transactions that form the basis of Plaintiffs’ claims in this lawsuit.
13. Plaintiffs did not submit a change of address that relates to a Texas driver’s license by mail during the change of address transactions that form the basis of Plaintiffs’ claims in this lawsuit.
14. Plaintiffs did not complete a voter registration application on the Secretary of State’s website through the link provided on the receipt page at the end of the change of address transactions that form the basis of Plaintiffs’ claims in this lawsuit.

15. After receiving the letters described in Stipulation 5, Defendants offered, through Plaintiffs' attorneys, to confirm Plaintiffs' voter registration status and provide assistance in updating their voter registration if they desired.
16. Plaintiffs did not attempt to renew their Texas driver's license online during the change of address transactions that form the basis of Plaintiffs' claims in this lawsuit.
17. Plaintiffs are currently registered to vote in the counties where in the letters referenced in Stipulation 5 each Plaintiff indicated they wished to be registered.
18. Plaintiff Jarrod Stringer did not attempt to cast a ballot in the federal general election in 2012.
19. Plaintiff Jarrod Stringer was able to cast a ballot in the 2016 federal general election.
20. Plaintiff John Woods was able to cast a ballot in the 2012 and 2016 federal general elections.
21. Plaintiff Benjamin Hernandez was able to cast a ballot in the 2012 and 2016 federal general elections.
22. There were no special federal elections in Texas in 2013 and 2015.

(Docket no. 94, Exh. A).

The record reflects the following additional facts. Although these facts are not stipulated, they are generally undisputed:

Each named Plaintiff moved within Texas, changed his driver's license address using the online driver's license renewal and change-of-address website,<sup>5</sup> indicated "yes" in response to the

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<sup>5</sup>The official website for the State of Texas, referred to as Texas.gov, was established for DPS and other state agencies to "put their services online" and provides "easy access to government information and . . . secure online services . . . through a public-private partnership between the State of Texas and Texas NICUSA, . . . the nation's leading provider of official government portals, online services, and secure payment processing solutions." Docket no. 93-6, p. 11.

prompt “I want to register to vote,” but was not registered to vote. Each Plaintiff was prevented from fully exercising his fundamental right to vote in a subsequent election due to his outdated voter registration record.

Benjamin Hernandez had been a registered voter in Ector County, Texas since the age of 18. He retired from his job with the City of Odessa in February 2013 and moved to Dallas County. He went online to change his driver’s license address. After inputting his information, Mr. Hernandez checked “yes” to the voter registration question and believed his voter registration would be updated and he would thereafter be registered to vote in Dallas County. On election day in 2014, Mr. Hernandez attempted to vote but was told his name was not on the rolls in Dallas County. He was allowed to cast a provisional ballot but later received notice that his vote was not counted because he was not registered to vote in Dallas County. *See* docket no. 94-4, deposition of B. Hernandez, at 16:11-17, 21-24; 18:6-12; 19:2-8, 21-22; 27:18-20; 28:2-6, 16-25; 29:1-2, 8-11; 32:2-6, 17-22; 34:8-11, 23-25; 37:1-13. *See also* docket no. 77, appx.149-165.

Dr. John Woods III changed his residence from Travis County to Harris County in June 2015. He went online to change his driver’s license address. After inputting his identifying information, he checked the box to register to vote. By checking “yes,” Dr. Woods believed his voter registration had been updated with the new address. But that did not happen. On election day in 2015, Dr. Woods called Harris County to identify his polling location. He was told that he was still registered in Travis County, rather than Harris County, and any provisional ballot cast in Harris County would likely not be counted. Dr. Woods went to the polling location anyway, cast his vote, and was later informed in writing that his provisional ballot was not counted. *See* docket no. 94-6, deposition of John Woods, at 22:8-13; 25:16-25; 26:1-5; 52:7-25; 53:1-6; 62:3-6; 63:3-25; 64:1-15; 65:1-9; 66:6-11. *See also* docket no. 77, appx. 188-204.

Jarrold Stringer moved from Tarrant to Bexar County and sought to change his address for driver's license and voter registration purposes. He thought that the DPS website would enable him to change his voter registration at the same time he changed his driver's license. Mr. Stringer went online and input all the requested information. There was a box he could check if he wanted to register to vote and he did so. Mr. Stringer believed he had "done the necessary steps to become a registered voter in Bexar County." He then attempted to vote in November 2014 and was told by poll workers that his name was not on the rolls. Mr. Stringer called Bexar County and was told he could vote only for statewide elections because he wasn't registered to vote in Bexar County. *See* docket no. 94-5, deposition of J. Stringer, at 15:8-24; 16:16-25; 17:1-5; 31:1-5, 19-24; 32:16-33:1; 45:7-46:22; 47:8-17. *See also* docket no. 77, appx. 167-186.

Plaintiffs' testimony regarding their personal experiences with DPS's online process is consistent with the testimony of State officials and employees with knowledge of how the process worked in the past and how it currently works. DPS operates offices around the State and issues driver's licenses and other state identification cards. DPS is also a designated voter registration agency, pursuant to 52 U.S.C. § 20506. DPS's in-person driver's license applications (DL-14A),<sup>6</sup> in-person renewal/replacement/change of address forms (DL-43),<sup>7</sup> and mail-in change of address forms (DL-64)<sup>8</sup> currently serve as simultaneous voter registration applications as required under the NVRA.<sup>9</sup> However, DPS has not integrated voter registration into its online process for driver's license renewal and change of address; thus, the driver's license application

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<sup>6</sup>Docket no. 93, exh. A-7.

<sup>7</sup>Docket no. 93, exh. A-8.

<sup>8</sup>Docket no. 93, exh. A-9.

<sup>9</sup>Until May 2015, DL-64 did not include any question about whether the applicant wanted to register to vote. Docket no. 77, appx. 116 (admission no. 21).

and voter registration application remain separate processes rather than one simultaneous transaction.<sup>10</sup>

Texas has an NVRA implementation plan which explains: “The Department will [provide to each person who applies in person] a form and procedure that *combines* the department’s application form for a license, identification card or EIC with an officially prescribed voter registration application form . . . The form will also inform the applicant that the applicant’s *electronic signature* provided to the department will be used for submitting the applicant’s voter registration application.” Docket no. 77, appx. 30 (emphasis added).<sup>11</sup> The implementation plan further states that the “department will use a change of address form and procedure that *combines* department and voter registration functions. The change of address form submitted in person will allow a licensee or cardholder to indicate whether the change of address is also to be used for registration purposes.” *Id.* (emphasis added). On “[e]ach weekday the Department is regularly open for business, the Department will *electronically* transfer to the Secretary of State (SOS) the name and relevant data regarding each applicant who is of voting age and a United States citizen who affirmatively answered the voter registration question.” Docket no. 77, appx. 31 (emphasis added). This plan was implemented after the enactment of the NVRA and confirms Texas’s

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<sup>10</sup>The process for driver’s license change of address and renewal is “combined online – it’s one system interface.” Docket no. 94-12, deposition of S. Gipson, at 37:10-16; docket no. 77, appx. 117, admission no. 5 (“the [Texas.gov] website provides a single online process for qualified applicants to renew their driver’s license, update the address listed on their driver’s license, or complete both processes in a single online transaction”). But voter registration is a completely separate transaction that must be done through SOS. Docket no. 94-12, deposition of S. Gipson, at 78:1-9; 94:1-4; *see also* docket no. 77, appx. 118 (admission nos. 10, 11).

<sup>11</sup>The form states: “By providing my electronic signature, I understand the personal information on my application form and my electronic signature will be used for submitting my voter’s registration application to the Texas Secretary of State’s office. Wanting to register to vote, I authorize the Department of Public Safety to transfer this information to the Texas Secretary of State.” Docket no. 77, appx. 40, deposition of K. Ingram (SOS) at 62:18-63:1.

understanding that the driver's license/voter registration process must be "combined" in one simultaneous transaction and that electronic signatures would be used for voter registration purposes.

When a "motor voter" applies for a Texas driver's license the first time, he must appear in person. During the transaction he signs a key pad which captures his electronic signature.<sup>12</sup> After a driver's license is issued, subsequent transactions (for renewal, replacement, or change of address) may be handled by mail, online, or even by phone. For voter registration purposes, the change of address forms submitted by mail have been handled in the same manner as renewal/change of address forms submitted in person. In both form DL-43 (the in-person application for renewal/replacement/change of address) and form DL-64 (the mail-in application for change of address) the driver's license and voter registration applications have been integrated or combined into one simultaneous transaction so that a customer need only check a single box indicating that he/she would like to register or update his/her voter information. After checking the box during the transaction, no further steps are necessary.<sup>13</sup> DPS receives the information and the motor voter's previously stored electronic signature, along with all other identifying data, is electronically submitted to SOS to be used for voter registration purposes.<sup>14</sup> Upon receipt, the SOS then transmits the data to local registrars for completion of the voter

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<sup>12</sup>See docket no. 94-8, deposition of S. Gipson (DPS), at 234:11-24.

<sup>13</sup>In other words, there is no need to go to SOS to obtain, print, complete, sign, and mail a separate voter registration application.

<sup>14</sup>Docket no. 94-7, deposition of Betsy Schonhoff, SOS voter registration manager, at 28:3-4 ("We get application files from them on a daily basis for voter registration"); docket no. 77, appx. 117, RFA 26 ("Admits that the information DPS transmits to SOS about each applicant for voter registration includes a digital image of the applicant's signature").



registration process.<sup>15</sup> Although the in-person and mail-in renewal/change of address forms contain a blank for a signature, neither DPS nor SOS use the signature on paper.<sup>16</sup> Instead, DPS and SOS use the previously stored electronic signature.<sup>17</sup> In fact, SOS admits that it never uses paper signatures obtained through DPS transactions – it uses only previously imaged electronic

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<sup>15</sup>As B. Schonhoff further explained:

Q: So DLS is the diver's license system, correct?

A: That's what I understand, right.

Q: And how does that system function within that process, the transfer process?

A: It's my understanding that when the operator enters an application into the DLS system and indicates that a person wants to be a registered voter, that information is then warehoused, if you will, at the State, and every night the State groups up those applications and send them – well, we get them as a single file. So depending on – for the DPS applications, I think we actually go pull – they produce the file, and then we go pull it and process it through our system on a daily basis.

Q: What do you mean by "our system"?

A: I'm sorry, the voter registration system, the team database system where we actually part the addresses and give that information out to the voter registrars of the county.

(Docket no. 94-7, deposition of B. Schonhoff, at 68:1-20).

<sup>16</sup>See docket no. 94-8, deposition of S. Gipson (DPS), at 254:4-7 (Q: So DPS was never actually scanning physical ink signatures from paper and then transmitting them to SOS . . .

A: No, we were not). *See also* docket no. 94-10, deposition of J. Crawford (DPS), at 73:17-25

(Q: Does the DLS only store electronic signatures? A: Yes. . . . Q: Sure. Does the DLS only store signatures which are input using the keypad? A: The DLS database itself, yes, it only stores signatures that are collected on those electronic pads); 76:20-21 (Q: Are signature files ever removed from DLS? A: No.); 77:6-16 (Q: If a person's record has more than one signature associated with that record, which signature would be batched and sent to the Secretary of State with the voter extract . . . file? A: The most recently captured one).

<sup>17</sup>See docket no. 94-10, deposition of J. Crawford, at 139:10-21 (Q: [T]he mail-in change of address, the current one . . . [w]ith regard to the batch that's sent to the Secretary of State at night for the voter registration, if the person answers "yes" on their change of address that's mailed in and that's input into DLS, it's the electronic signature that was previously provided the last time that person went in person. That's the signature that goes to the Secretary of State. Is that right? A: Yes, that's correct).

signatures for voter registration purposes.<sup>18</sup> As Keith Ingram, the SOS 30(b)(6) representative, testified:

Q: So you identified for me or explained to me why – what the electronic signature or the keypad signature at DPS is used for. It's used for the signature that's required in the Texas Election Code. You read me the section. Is that right?

A: That's right.

Q: What's the ink signature on the DPS's physical forms used for as far as voter registration?

A: I don't know. I don't know if it's used for anything. Once they've applied in person at the office, they've signed it electronically.

\* \* \*

Q: On the . . . driver's license forms . . . it says, "By providing my electronic signature, I understand the personal information on my application form and my electronic signature will be used for submitting my voter registration application to the Secretary of State's Office." Correct?

A: That's what it says.

Q. Okay. And so that's indicating to the prospective voter that the electronic signature is what's used as the signature that's compliant with the Texas Election Code?

A: The physical signature that's electronically captured, yes.

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<sup>18</sup>See docket no. 77, appx. 117, admission no. 26 (Defendants admit "that the *information* DPS transmits to SOS about each applicant for voter registration includes a *digital image of the applicant's signature*"); appx. 118, admission nos. 10, 11 (Defendants admit "that individuals are not registered to vote in connection with their interactions with DPS unless they submit an *image of their signature*, either by submitting a signed application by mail, or providing an *electronic image* of their physical signature in person at a DPS location") (emphasis added).

Q: Okay. Back to your point about the online transactions not containing a signature, the DPS does use the prior provided electronic signature that – for the driver’s license that they – the customer used – provided the last time they were in person. Correct?

A: Presumably, yes.

Q: The same goes for the mail-in change of address transaction – are you looking at your driver’s license there?

A: Yeah. Because this one was renewed online, and so I guess that I wrote that signature at their signature capture device quite a while ago. . . .

Q: For the mail-in change of address form that . . . DPS receives that has the voter registration question, there is not an electronic signature or a – use your phrase – the physical signature provided on a keypad provided for that change of address interaction. Correct?

A: No. There’s a physical signature on the – on the address change application.

Q: Right. But the information that gets sent on to the voter registrars through the Secretary of State’s Office is the data that’s pulled from that form and then the electronic signature that was previously provided by the customer in person at a DPS office?

A: That’s my understanding, yes.

Q: Well, is that the Secretary of State’s understanding?

A: That is the Secretary of State’s understanding. You bet.

Docket no. 94-11, appx. 39, 42, deposition of K. Ingram, at 50:1-11; 95:14-97:14.

Sheri Gipson with DPS also testified:

Q: So the signature that is sent for an in-person transaction where someone answers “yes” to the voter registration question and – and similarly when someone changes their address

– excuse me – address via the mail, the signature that’s sent for both of those voter registration applications, that’s the electronic signature; is that right?

A: That is correct.

Q: And that’s sent to the Secretary of State?

A: That is correct.

Q: Okay. The ink signature is never sent to the Secretary of State, correct?

A: That is correct.

\* \* \*

Q: Does anyone go through and compare these two?

A: Not typically, no. . . .

\* \* \*

Q: Okay. So then the mail-in signatures are never compared [with the stored electronic signatures]. . . .

A: During the routine process, it would never be compared . . . . When I say “routine process,” what I’m talking about is the individual that’s processing that mail renewal application, they would never compare that signature.

Docket no. 77, appx. 69, deposition of S. Gipson, at 203:19-204:7; appx. 79 at 234:25-235:1; 236:19-237:9.

Because preexisting electronic signatures, rather than signatures on paper, are used for paper (in-person and mail-in) renewal and change of address transactions, it would seem logical that preexisting electronic signatures would be used for paperless (online) transactions. Yet Defendants claim that, under Texas law, renewal and change of address transactions performed online require a signature on paper for voter registration purposes. As Mr. Ingram testified:

Q: So in that same way, the online transaction could utilize the previously provided electronic signature that was provided in person by the customer for the voter registration application form that gets to the voter registrar in the same way that the change of address mail-in occurs?

A: It could if the law allowed it, but the law doesn't allow it, so it can't.

Q: What portion of the [Texas] law doesn't allow it?

A: 13.002(b).

Docket no. 94-11, deposition of K. Ingram, at 97:15-24; docket no. 77, appx. 42.

Because Defendants assert that Texas law requires a signature on paper, and a signature on paper during a paperless transaction is not possible, Defendants essentially claim they should be excused from compliance with the NVRA when it comes to online renewal and change of address transactions.<sup>19</sup>

Prior to 2013, a motor voter who engaged in an online/paperless transaction for a driver's license renewal or change of address would provide the same in-depth identifying information required for an in-person or mail-in transaction, but when reaching the question of whether he would like to register to vote or update his voter information, checking the "yes" box would automatically default to "no." Thus, while the user may have been led to believe that his "yes" answer would result in updating his voter information, and there was the appearance of compliance with the NVRA, there was never an intent on the part of DPS or SOS to actually update the voter registration information. Thus, the answer to the question regarding voter

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<sup>19</sup> As Ms. Gipson explained, for online transactions, Texas has decided that a previously captured electronic signature is sufficient for driver's license purposes, but they've refused to accept the same electronic signature for voter registration purposes. Docket no. 77, appx. 70, deposition of S. Gipson, at 215:21-216:7.

registration was completely meaningless. SOS was aware of the NVRA requirements. SOS was also aware that the online voter registration question, programmed to automatically default to “no,” was completely meaningless.<sup>20</sup> As Mr. Ingram testified:

Q: Why is there a voter registration question on the online DPS transaction – application?

Excuse me.

A: Well, I imagine it’s because of Section 5 of the National Voter Registration Act of 1993.

Q: Could you elaborate on that a little bit?

A: Sure. The National Voter Registration Act of 1993 required that motor vehicle agencies, in our case the DPS, whenever a person has a driver’s license transaction – driver’s license transaction, that they should simultaneously offer the right – the ability to update their voter registration or register to vote for the first time. That’s why the NVRA is called the Motor Voter law.

\* \* \*

Q: Okay. So in – back in 2012, the Secretary of State’s office was aware that the answer to the “do you want to register to vote” question online was defaulting to no. Is that correct?

A: Right.

Q: Was there any – any discussion at that point with the Department of Public Safety to – to make that change?

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<sup>20</sup>Or worse, it could have led to voter registration data being purged. Legislative history suggests that a key concern when enacting the NVRA was abuse of the purging efforts, so Congress specifically prevented states from removing voters from the rolls for failure to vote or failure to respond to a change-of-address notification. *See* H.R. Rep. No. 103-9, at 16 (1993), reprinted in 1993 U.S.C.C.A.N. 105, 120.



A: Not that I recall.

Docket no. 77, appx. 40-41, deposition of K. Ingram at 62:4-17; 84:24-85:8.

As explained in Mr. Ingram's deposition, the automatic default to "no" for voter registration was the subject of a 2012 complaint by an unidentified motor voter. Docket no. 77, appx. 41, deposition of K. Ingram at 83:15-85:3. SOS responded: "That is something we can discuss with DPS in the future." Docket no. 77, appx. 41, deposition of K. Ingram at 84:16-18. Mr. Ingram did not recall any subsequent discussions. After some passage of time, DPS did remove the automatic default to "no." Docket no. 77, appx. 41, deposition of K. Ingram at 82:7-13.

Thereafter, until February 27, 2016, Step 5 of the online renewal and change of address interface was changed to prompt the applicant to select "yes" or "no" beneath the statement "I want to register to vote." It no longer defaulted to "no," but selecting "yes" did not provide a simultaneous voter application. Instead, it gave the user a link to the SOS voter registration website for a completely separate application process. Docket no. 77, appx. 118, admission no. 7.

After February 27, 2016, Step 5 of the online renewal and change of address interface was changed to prompt the applicant to select "yes" or "no" to answer the question "Do you want to request a voter application?" Docket no. 77, appx. 118, admission 8, 9. While the online process currently accepts a "yes" answer to the voter application question, the transaction still ends there. The user is still not provided a simultaneous application for voter registration purposes. Instead, when a user responds with a "yes" answer to the voter application question, the user is simply given a website link to the SOS office.<sup>21</sup> See Stipulation no. 10, p. 5, *supra*. If the user goes to the

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<sup>21</sup>See Docket no. 77, appx. 45, deposition of K. Ingram at 182:5-10 ("When they select yes to voter reg online, they are merely presented with a link and has no indication of whether or not they actually registered to vote").

SOS website, he must request and fill out a completely separate voter registration application as if there had been no DPS transaction at all.<sup>22</sup> For an in-county change of address, SOS will handle the transaction but it's still a completely separate process from the DPS transaction. For an out-of-county change of address, the application must be retrieved, printed, filled out, and mailed or delivered in person to the county registrar in order to update the voter registration. The application seeks the same information required by DPS for an online driver's license change of address but the motor voter must go through a completely different governmental entity (SOS) with a completely separate application process.<sup>23</sup> Thus, it is indisputable that the online DPS renewal/change of address transaction and SOS voter registration transaction are not simultaneous, but rather entirely separate application procedures conducted through separate agencies.<sup>24</sup> If the motor voter does not take these extra steps – go to the SOS website, request an

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<sup>22</sup>See docket no. 77, appx. 78, deposition of S. Gipson at 136:20-137:21 (the voter registration process “is separate”).

<sup>23</sup>See Docket no. 94-7, deposition of B. Schonhoff (SOS), at 157:19-158:18 (they would have to fill the same information out twice).

<sup>24</sup>See Docket no. 94-7, deposition of B. Schonhoff (SOS), at 159:23-160:11:

Q: Does SOS track information about whether a DPS customer clicks “yes” to the voter registration question on the online application?

A: For the DPS application?

Q: Yes.

A: No, not to my knowledge.

Q: Okay. Does SOS track information about whether a DPS customer using an online driver's license – or filling out an online driver's license application, whether that person clicks through to the SOS website?

A: No to my knowledge.

Q: And why not?

A: It's not our application. It's not our software. It's not our website.

application, print out the application, fill out and sign the application, and then mail or hand deliver it to the country registrar – he will not be registered to vote.

Both DPS and SOS claim they cannot comply with the NVRA and integrate DPS online renewal/change of address with SOS voter registration to provide a simultaneous application because the Texas Election Code requires a signature. Docket no. 94-7, deposition of B. Schonhoff, at 195:11-17; *see also* docket no. 94-11 and docket no. 77, appx. 42, deposition of K. Ingram, at 97:15-24. Yet SOS admits that it uses previously stored electronic signatures for *all* voter registration applications that originate with DPS regardless of whether those applications are paper transactions. As Betsy Schonhoff testified:

Q: The signature that Secretary of State is currently using for voter registration applications is an electronic signature that is provided when a person goes in person to a DPS office; is that right?

A: When they are – when they are in the application file, you mean?

Q: Yes, the voter registration application.

A: Yes, It's what they have signed on that signature pad. That's my understanding.

Q: Turning your attention to the mail-in change of address. You acknowledge that the Secretary of State does receive voter registration applications from change of address mail-ins that DPS processes; is that correct?

A: That's correct.

Q: Yes.

A: It is my understanding they treat in-person just like – mail just the same as in person.

Q: But the mail-in – correct me if I am wrong – the mail-in address to the application for update with DPS, the signature that's on that form is not extracted and somehow the

Secretary of State gets access to it; is that correct?

A: That's my understanding.

Q: . . . It is your understanding that the current law requires a signature for the voter registration application. Do I have that right?

A: Yes.

Q: The mail-in forms that you all are getting information from, from DPS, uses the prior provided electronic signature from that customer; is that right?

A: That's my understanding.

Docket no. 94-7, deposition of B. Schonhoff, at 195:18-196:25.

Defendants also stipulate that DPS uses electronic signatures for *all* online driver's license renewal or change of address transactions. Docket no. 94, Stipulation 11 ("The signature that appears on the license generated as a result of a customer's online driver's license renewal or change of address transaction is an image of the applicant's physical signature, electronically captured during the applicant's most recent in-person transaction in a DPS field office (On the DL-14A and DL-43 forms this is referred to as the applicant's 'electronic signature')").

Defendants admit that they even use electronic signatures for driver's license transactions conducted over the telephone. *See* docket no. 94-12, deposition of S. Gipson, at 175:2-23 ("Telephone transactions are handled in the same manner as an online transaction . . . Q: So when a customer renews a driver's license on – over the telephone, does DPS use the signature that was previously on file to – to put on the customer's renewed driver's license? A: Yes.").

Defendants admit that the personal information required for authenticating online transactions is equal to or even more rigorous than the identifying information used for in-person

and mail-in transactions.<sup>25</sup> They also admit there are no technological barriers to simultaneous online transactions. Again, Ms. Schonhoff testified:

Q: . . . If they send – DPS collects and sends to you, the Secretary of State’s office, all of the information they currently send to you for in-person transactions where the individual checks “yes,” I want to register to vote, they send you all of that same information, the same data points, the same electronic signature, the TEAM system on your end could process it in the same way that it currently processes the information that comes for in-person transactions at DPS?

A: From a technical standpoint?

Q: Yes.

A: That’s correct.

Docket no. 94-7, deposition of B. Schonhoff, at 222:9-22.

And Mr. Ingram also testified:

Q. Well . . . going back to the mail-in change of address with DPS, that information goes on to the Secretary of State. If someone chooses to register to vote, that signature is retrieved from DLS and sent on to the Secretary of State. Right?

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<sup>25</sup>See docket nos. 94-8 and 94-12, deposition of S. Gipson (DPS), at 237:16-20 (Q: How does DPS go about verifying the information submitted online for the online change of address or renewal form? A: Again, the only verification that’s done there is their log-in credentials); 234:2-9 (“They’re . . . well, the only thing that they’re changing is their address. But they’re – they’re verifying who they are through the authentication process that occurs up front by providing key pieces of data, which is their . . . name, the driver-license number, date of birth, *the audit number* that’s on the card they currently hold, and the last four of their Social.”) (emphasis added); 224:12-14 (Q: What about an audit number, is that requested on paper forms? A: No, it’s not.). See also docket no. 94-9, deposition of E. Hutchins, at 28:4-25; 30:4-31:16; 33:8-34:1 (authentication of users on DPS’s online process for driver’s license renewal and change of address is done in real-time). Compare docket no. 93-8 (in-person); 93-9 (mail-in); and 93-10 (online).

A: It's retrieved from wherever they keep it, yes.

Q: Okay. And, presumably, that same signature could be sent on if the person answered yes to the voter registration question online?

A: If it was legal to do so. I've already told you I think that's technically possible. You bet.

Q: Okay. And –

A: And I don't think it would cost a lot of money.

\* \* \*

Q: But the Secretary of State does know that DPS is able to pull the proper signature to send on for voter registration purposes to the Secretary of State for mail-in change of address forms?

A: I'm not arguing with you that this is not possible. That is not my argument at all. My argument is exactly to the contrary. This is a very possible thing to do what you're saying if it was legal, and it's not legal . . . So I'm not contesting the logistics of it. We can agree that it's a possible thing to do.

Docket no. 77, appx. 45, deposition of K. Ingram at 184:12-185:1; 186:5-16. *See also* docket no. 94-9, deposition of E. Hutchins, at 99:22-100:2; docket no. 94-10, deposition of J. Crawford, at 142:6-18; 143:12-144:21 (DLS could send all the information it currently obtains to the Secretary of State's office, and "it could also send the previously provided electronic signature from that customer, just like it does with a mail-in change of address").<sup>26</sup> While feasible, Defendants refuse

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<sup>26</sup>When motor voters submit a mail-in a change of address form, a DPS employee manually inputs all of the responses into the DLS via computer, including the response to the question of whether he or she would like to register to vote (docket no. 77, appx. 120, RFA 23) and the stored electronic signature is used. Thus, there is no real distinction in processing of online transactions and mail-in transactions other than the physical signature on the mail-in form,



to use the voter information and technology currently available because they claim the Texas Election Code does not allow the use of previously captured electronic signatures for online transactions – even though they already use them for mail-in and in-person transactions.

Plaintiffs disagree with Defendants’ legal argument and assert that because SOS uses previously captured electronic signatures for voter registration purposes in all other instances, there is no reason why Defendants cannot use those same electronic signatures for online transactions.

#### IV.

##### Overview of the NVRA

The NVRA was enacted in 1993 pursuant to Congress’s constitutional authority under the Elections clause to “make or alter regulations” which have an effect upon federal elections. U.S. CONST. art. 1, § 4, cl. 1. Specifically, Congress found that –

- (1) the right of citizens of the United States to vote is a fundamental right;
- (2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and
- (3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

52 U.S.C. § 20501(a)(1)-(3).

The stated purposes of the Act are –

- (1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

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which is not compared with the electronic signature, not used for DPS purposes, and not forwarded to SOS for voter registration purposes.

- (2) to make it possible for Federal, State, and local governments to implement this chapter in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;
- (3) to protect the integrity of the electoral process; and
- (4) to ensure that accurate and current voter registration rolls are maintained.

52 U.S.C. § 20501(b)(1)-(4).

Based on these findings and for these stated purposes, Congress imposed national procedures for voter registration for elections for federal office as follows:

(a) In general

Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office –

(1) by application made *simultaneously* with an application for a motor vehicle driver's license pursuant to section 20504 of this title;

(2) by mail application pursuant to section 20505 of this title; and

(3) by application in person –

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 20506 of this title.

52 U.S.C. § 20503 (emphasis added).

Section 20504 specifically describes the requirements for a simultaneous application for voter registration and motor vehicle driver's license:

(a) In general

(1) Each State motor vehicle driver's license application (*including any renewal application*) submitted to the appropriate State motor vehicle authority under State law *shall serve as an application for voter registration* with respect to elections for Federal office unless the applicant fails to sign the voter registration application.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

\* \* \*

(c) Forms and procedures

(1) Each State shall include a voter registration application form for elections for Federal office *as part of* an application for a State motor vehicle driver's license –

(2) The voter registration application *portion* of an application for a State motor vehicle driver's license –

(A) *may not require any information that duplicates information required in the driver's license portion of the form* (other than a second signature or other information necessary under subparagraph (C));

(B) may require only the minimum amount of information necessary to –

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(C) shall include a statement that –

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury;

\* \* \*

(d) Change of address

Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license *shall serve as notification of change of address for voter registration* with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

52 U.S.C. § 20504 (emphasis added).

Section 20506(a)(5)(C) further states that “A person who provides service . . . shall not . . . “take any action the purpose or effect of which is to discourage the applicant from registering to vote.”

And finally, Section 20510 provides civil enforcement by the Attorney General and a private right of action for any person “who is aggrieved by a violation of this chapter,” 52 U.S.C. § 20510(a)-(b), and the “rights and remedies . . . are in addition to all other rights and remedies provided by law,” 52 U.S.C. § 20510(d).

The notice provision in § 20510(b) further states:

(1) A person who is aggrieved by a violation of this chapter may provide written notice of the violation to the chief election officials of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect

to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

52 U.S.C. § 20510(b)(2)-(3).

## V.

### Analysis

The Court will first address the issues that Defendants have raised in their defense, and will then address the merits of Plaintiffs' case.

#### A. Statutory standing/notice

Defendants claim that Plaintiffs lack statutory standing for failure to comply with the notice provision in the NVRA, 52 U.S.C. § 20510. On May 27, 2015, Plaintiffs' counsel sent a notice letter on behalf of Benjamin Hernandez and others explaining in detail the applicable law, the NVRA violation made the basis of this lawsuit, and why the complainants believed their rights were being violated. Docket no. 77, appx. 2. On October 23, 2015, Plaintiffs' counsel sent a supplemental notice letter on behalf of Jarrod Stringer, explaining how the continuing violation affected him and urging correction and compliance. Docket no. 77, appx. 23. On November 18, 2015, a second supplemental notice letter was sent on behalf of Dr. Woods, explaining his experience and urging compliance with NVRA mandates and correction of the continuing violations with online transactions. Docket no. 77, appx. 26. Defendants refer to the letters as "purported notice" and claim that Plaintiffs "have not complied with the NVRA's mandatory notice provision." Docket no. 82, pp. 2, 11. But Defendants do not explain why the letters should be considered ineffective for notice purposes. The statute merely requires that "a person who is

aggrieved by a violation of this chapter may provide written notice of the violation.” 52 U.S.C. § 20510(b)(1). This requirement has been satisfied.

In response to the notice letters, the parties exchanged several written communications over a six month period, met in person, and attempted to work out the non-compliance issues raised in the notice letters.<sup>27</sup> Plaintiffs did ultimately get registered to vote, but Defendants disagreed with Plaintiffs about what the NVRA requires and refused to take the steps that Plaintiffs contend are required by the NVRA to cure the underlying violations. Plaintiffs filed this lawsuit on March 14, 2016, more than 90 days after receipt of notice and an opportunity to correct the violations. Docket no. 1.<sup>28</sup>

Defendants rely on *Scott v. Schedler*, 771 F.3d 831 (5th Cir. 2014), for the proposition that they cannot be sued if the aggrieved person is registered to vote within 90 days after notice of a violation.<sup>29</sup> Neither the NVRA nor the holding in *Scott* supports this broad proposition, and Defendants’ argument ignores the underlying violations that occurred when Plaintiffs were not provided simultaneous voter registration applications as required by the NVRA. In the *Scott* case, the individual plaintiff, Luther Scott, Jr., never sent a notice letter. The NAACP sent a notice letter to the Louisiana SOS, but never mentioned Scott. On appeal, Scott admitted that he himself did not provide notice but claimed notice was not required from him personally because the NAACP provided notice. Without reaching the merits of Scott’s claim, the Fifth Circuit held that

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<sup>27</sup>Docket no. 77, appx. 99; admission no. 23.

<sup>28</sup>More than two years has now passed. The online process has still not changed and Defendants have indicated a refusal to make any changes.

<sup>29</sup>Docket no. 82, p. 2 (“Plaintiffs lack statutory standing because it is undisputed that – following their purported ‘notice’ letters to the State – Defendants offered their assistance in confirming each Plaintiffs’ voter registration and assisting any Plaintiff that wanted to update his information.”).



“Scott’s failure to provide notice is fatal to his suit.” *Scott*, 771 F.3d at 836.

Plaintiffs in this case did not fail to provide notice and Defendants have not corrected the violations made the basis of Plaintiffs’ complaint. Defendants’ broad assertion – that offering registration assistance after receiving notice excuses the prior/ongoing violation, strips the plaintiff of standing, and precludes suit regardless of the nature of the violation – ignores the mandates of the NVRA, the facts and holding in the *Scott* case, and the facts and underlying violations in this case.<sup>30</sup> Plaintiffs have complied with the statutory notice requirements and have standing to pursue their claims under the NVRA.<sup>31</sup>

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<sup>30</sup>In the *Scott* case, the individual plaintiff (who was intermittently homeless) complained that he was not given a voter registration form when he visited the Louisiana Department of Children and Family Services (LCFS) in person. 771 F.3d at 833. Scott did not give written notice and his claim was dismissed on that basis alone. *Id.* (“We dismiss Scott’s claim on standing and notice grounds.”). The LCFS did try to provide Mr. Scott with voter registration forms in an attempt to cure the alleged violation which the Fifth Circuit noted, in *dicta*, was the sort of response that pre-litigation notice was meant to encourage. *Id.* at 836. At the same time, the Fifth Circuit considered the NAACP’s claims which alleged violations far broader than the narrow focus of Scott’s individual claim and which the defendants had failed to cure after receiving notice. In this case, Plaintiffs have complained that they were deprived of their statutory right to a *simultaneous* voter registration application during their online transactions with Texas DPS. In other words, Defendants failed to treat their online driver’s license applications as simultaneous voter registration applications and required them to subsequently submit duplicate information for voter registration that was separate and apart from information submitted during their driver’s license transactions. *See* docket no. 1. Defendants were given pre-litigation notice, but the violations in issue – which are rooted in the failure to provide *simultaneous* voter registration applications during online transactions – have not been cured and Defendants have not demonstrated a willingness to cure the violations. *See Scott*, 771 F.3d at 836 (discussing futility argument when there is no demonstrated desire to comply with the NVRA).

<sup>31</sup>Defendants also cite *Georgia State Conference v. Kemp*, 841 F. Supp. 2d 1320 (N.D. Ga. 2012) for the proposition that “attempt[ing] to comply” with the relevant NVRA provisions after receiving notice, if “more than an empty gesture,” precludes litigation. Docket no. 88, pp. 6-7. The violation in *Kemp* was the systemic failure to provide voter registration to persons seeking public assistance. Simultaneous voter registration was honored for persons obtaining a hunting, fishing, or trapping license, but not for persons seeking public assistance benefits. The court found that the plaintiffs had stated a viable claim. Moreover, the court found all plaintiffs – with the exception of Mr. Murphy – had complied with the notice provision. “Murphy’s particular situation was not made known to the defendants until they were served with the amended

B. Article III standing/mootness

To establish Article III standing, a plaintiff must show an “injury in fact” that is concrete, particularized, and actual or imminent, not conjectural or hypothetical; that the injury is “fairly traceable” to the challenged conduct of the defendant; and that it is likely, not merely speculative, that the injury can be redressed by a favorable decision. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *Friends of the Earth, Inc. v. Laidlaw Environmental Services*, 528 U.S. 167, 180-81 (2000). Here, Plaintiffs were deprived of their individual right to simultaneous voter registration applications at the time they engaged in the online DPS transactions to change their driver’s licenses. Plaintiffs would have been properly registered to vote in time for the following election if Defendants had complied with the NVRA. The violation itself and the resulting disenfranchisement is fairly traceable to Defendants’ noncompliance with the NVRA. Plaintiffs have articulated and shown an individualized dispute, rather than a generalized complaint. Court-ordered compliance with the NVRA would prevent repetition of the same injury to Plaintiffs and others.

Defendants claim that their offer of assistance in updating Plaintiffs’ voter information

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complaint.” 841 F. Supp. 2d at 1335. Thus, Murphy did not have standing. The court did note that Georgia attempted to comply “with regard to Mr. Murphy” but that was not the basis for dismissal. Instead, Mr. Murphy’s claim was dismissed for failing to comply with the notice requirement. *Id.* at 1335-36. The court refused to dismiss the remaining claims because the other plaintiffs did provide notice, their claims were much broader, and Georgia’s “efforts” to change its practices were insufficient to render the controversy moot. *Id.* at 1338-39. In this case, Plaintiffs have satisfied the notice requirement and Defendants have refused to modify their practices. The NVRA plainly states that a violation must be “corrected,” not just attempted. 52 U.S.C. § 20510(b)(2). In this case, Plaintiffs were *subsequently* provided voter registration applications, but they were not provided *simultaneous* applications as required by the NVRA. The failure to provide Texans with simultaneous applications during online DPS transactions still persists. The State has refused to correct the violations made the basis of Plaintiffs’ complaint and, based on the deposition testimony of SOS and DPS officials, they have no plans to correct the violations being asserted herein.

and/or confirming their registration status after the violation renders this controversy moot. But Defendants were simply providing the assistance that they are required by law to provide to voters. *See* 52 U.S.C. § 20506 (a)(4)(A),(6)(C) (A voter registration agency shall provide assistance to each applicant in completing voter registration forms unless the applicant refuses such assistance). And compliance with one provision of the law does not render moot violations of other provisions of the law. The underlying violations that form the basis of Plaintiffs' complaint have not been corrected and continue unabated. The DPS online renewal and change of address transactions do not serve as "simultaneous" applications for voter registration, in violation of 52 U.S.C. §§ 20503(a)(1), 20504(a)(1); the separate SOS voter registration process is not "part of" the DPS online driver's license transaction, as required by 52 U.S.C. § 20504(c)(1); information required by SOS for a separate voter registration transaction "duplicates" the information required by DPS for an online renewal or change of address transaction, in violation of 52 U.S.C. § 20504(c)(2)(A); and the online change of address transaction does not "serve as notification of change of address for voter registration," as required by 52 U.S.C. § 20504(d). These are the violations that form the basis of Plaintiffs' complaint and these violations have not been corrected despite notice and the ability to do so.

Defendants' mootness argument also overlooks the two-fold nature of Plaintiffs' cause of action. Plaintiffs contend that the State's online process itself is unlawful under the NVRA; thus, they allege not only disenfranchisement, but also a violation of the statutory right to a simultaneous application for both voter registration and driver's license renewal and change of address. Defendants' assertion – that post-notice voter registration assistance effectively cures any NVRA violation – ignores the clear mandates of the NVRA. The lack of voter registration and resulting disenfranchisement were merely the symptoms of the underlying violation, and

treating the symptoms does not cure the underlying violation. Thus, the controversy is not moot just because Plaintiffs were ultimately registered to vote.

Defendants also argue that Plaintiffs' injuries are not redressable and their claims are moot because they were disenfranchised only in past elections and the "capable of repetition" exception to mootness does not apply because there is not a reasonable expectation that Plaintiffs will be disenfranchised in this manner in the future. Voting-related lawsuits do not become moot just because an election has passed. *Ctr. for Indiv. Freedom v. Carmouche*, 449 F.3d 655, 662 (5th Cir. 2006) ("Controversy surrounding elections laws . . . is one of the paradigmatic circumstances in which the Supreme Court has found that full litigation can never be completed before the precise controversy (a particular election) has run its course."). Because this controversy is not moot, the case does not necessarily turn on the "capable of repetition" exception to mootness. But this is exactly the type of violation that is capable of repetition yet evading review. *See Spencer v. Kemna*, 523 U.S. 1, 17-18 (1998) (the doctrine applies when the challenged action is in its duration too short to be fully litigated prior to cessation or expiration and there is a reasonable expectation that the same complaining party will be subject to the same action again). Defendants have refused to change their online process to allow simultaneous voter registration applications. Thus, if these Plaintiffs (or others) were to relocate tomorrow, and engage in an online DPS transaction to change their address, they would be deprived of their right to simultaneously change their voter registration information. And unless these Plaintiffs (or others) took further steps on their own, which the NVRA protects *against*, they would be disenfranchised.<sup>32</sup> Thus, whether the focus is on these particular Plaintiffs or others, the same

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<sup>32</sup>The mandates of the NVRA dictate exactly the opposite of what Defendants want Texans to do to personally ensure they are registered to vote: engage in a second transaction that requires a separate application with duplicate information and the burden of downloading, printing, and mailing or personal delivery. Congress lifted these burdens to make voter

injury is likely to occur again. See *Carmouche*, 449 F.3d at 662 (citing *Storer v. Brown*, 417 U.S. 926 (1974) and *Dunn v. Blumstein*, 403 U.S. 330 (1972) for the proposition that a case is not moot if other individuals will be affected by the action being challenged). When a controversy is truly moot, there is nothing left to remedy. In this case, Defendants' noncompliance with the NVRA has continued unabated, and although resulting disenfranchisement may cease prior to a remedy, the challenged action continues.

Defendants further argue that Plaintiffs have failed to establish Article III standing because their injuries stem from their own failure to take the extra steps to print, complete, and mail paper voter registration forms through SOS as instructed in their online driver's license transactions with DPS. The irony of this argument does not go unnoticed. In sum, Defendants claim that Plaintiffs and others should never have Article III standing to sue for the State's noncompliance with the NVRA if they do not follow the State registration process that allegedly violates the NVRA. As Plaintiffs explained in their deposition testimony, they believed their change of address transaction for driver's license purposes also served to update their voter registration. They showed up at the polls to vote in the following election only to discover that their registration had not been updated. Even if they did not complete the SOS registration process (which they believed they had done), the failure to complete the extra steps put in place by the State does not strip them of Article III standing to pursue a claim under federal law. Nothing in the NVRA requires Plaintiffs or others to exhaust a state process before pursuing a federal claim – especially when the state process itself is alleged to violate the federal law being enforced.

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registration easier, yet Defendants ignore the NVRA mandate and impose requirements which result in disenfranchisement if voters do not jump through all the hoops.

Defendants rely upon the holding of the Fifth Circuit in *Westfall v. Miller*, 77 F.3d 868 (5th Cir. 1996). In that case, the court found a lack of standing because the plaintiff was challenging a federal requirement that he obtain law enforcement certification before being permitted to purchase a machine gun and he unsuccessfully sought certification from some, but not all, of the officials who could provide it. *Id.* at 871. *Westfall* is distinguishable because the plaintiff therein was challenging a federal regulation that required a specific process. In this case, Plaintiffs are not challenging the NVRA; they are seeking to enforce it. And the state process that Plaintiffs are challenging is not a federal process that the NVRA requires. Instead, the NVRA mandates *against* the state process. Again, Defendants' argument that Plaintiffs are responsible for their own injury because they failed to complete the State's registration process overlooks Plaintiffs' claim that the State's registration process is itself unlawful, and thus they allege not only disenfranchisement, but also a violation of their federal right to "[s]imultaneous application for voter registration and . . . driver's license[.]" 52 U.S.C. § 20504. This statutory injury remains cognizable regardless of whether Plaintiffs completed the state registration process that they challenge under federal law. *See Spokeo, Inc. v. Robins*, 136 S.Ct. 1540, 1549 (2016), *as revised* (May 24, 2016) ("Congress has the power to define injuries and articulate chains of causation that will give rise to a case or controversy where none existed before."); *Wendt v. 24 Hour Fitness USA, Inc.*, 821 F.3d 547, 552 (5th Cir. 2016) ("[t]he actual or threatened injury required by Art. III may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing."); *ACORN v. Fowler*, 178 F.3d 350, 363 (5th Cir. 1999) (the NVRA's private right of action "extend[s] standing under the Act to the maximum allowable under the Constitution"); *Arcia v. Florida Sec'y of State*, 772 F.3d 1335, 1341 (11th Cir. 2014) ("Even though they were ultimately not prevented from voting, an injury like theirs [being erroneously identified as a non-citizen and removed from the voter rolls] is sufficient to confer standing.");



*Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1351 (11th Cir. 2009) (“A plaintiff need not have the franchise wholly denied to suffer injury.”).

C. Dr. Woods’ standing

Defendants also claim that Dr. Woods does not have standing individually to pursue a claim under the NVRA because he was disenfranchised only in the 2015 election and the ballot did not include any federal contests.<sup>33</sup> This standing argument against Dr. Woods individually may present a closer question than the standing challenges against Plaintiffs collectively. In *Broyles v. Texas*, 618 F. Supp. 2d 661, 690-92 (S.D. Tex. 2009) the district court found the NVRA inapplicable because the plaintiffs therein complained about irregularities in a municipal special purpose election. The plaintiffs in *Broyles* did not allege or present “any evidence of registration problems that affected their right to vote in a federal election or on any issue beyond the [municipal] incorporation issue.” *Id.* Although the *Broyles* court found that the NVRA did not apply, it did explain that even if the NVRA did apply to municipal registration issues, the plaintiffs therein did not satisfy the prerequisite notice requirement. *Id.* at 691. They waited until after the municipal incorporation vote and then simply filed suit. 618 F. Supp. 2d 691 (“the ‘notice’ came in the form of a Summons and Original Complaint”).

The Court believes that deciding this issue based on whether a subsequent election is state or federal and whether the plaintiff was disenfranchised in whole or in part is inconsistent with traditional notions of standing. First, the NVRA’s private right of action “extend[s] standing under the Act to the maximum allowable under the Constitution.” *ACORN v. Fowler*, 178 F.3d at 363. Second, the presence of one party with standing is sufficient to satisfy Article III. *Rumsfeld v. Forum for Academic & Institutional Rights, Inc.*, 547 U.S. 47, 52 n. 2 (2006); *Texas v. U.S.*,

<sup>33</sup>It is undisputed that both Stringer and Hernandez were disenfranchised in 2014, a federal election year. Thus, although Defendants repeatedly refer to “Plaintiffs” in making this argument, it applies only to Dr. Woods.

787 F.3d 733, 747 (5th Cir. 2015). Third, a threat of impending injury is sufficient to satisfy Article III standing. *See Wendt*, 821 F.3d at 552 (“[t]he actual or threatened injury required by Art. III may exist solely by virtue of statutes creating legal rights, the invasion of which creates standing”). Here, Plaintiffs have presented undisputed evidence of violations and immediate injury (a failure to provide *simultaneous* applications for voter registration) that occurred *at the time* of their online DPS transactions. They complied with the NVRA pre-litigation notice requirements but Defendants failed to take the necessary steps to cure the statutory violation and come into compliance. The threat of injury to Plaintiffs and others continues because Defendants have refused to alter their practices.

The statutory violation and requisite injury occurred at the moment Dr. Woods was denied a simultaneous voter registration application. This should be sufficient to confer standing. Later disenfranchisement (regardless of the nature of the election) furthered the injury, but the violation and immediate injury had already occurred during the online transaction with DPS. NVRA expressly reminds us that “it is the duty of the Federal, State, and local governments to promote the exercise of [the fundamental right to vote].” 52 U.S.C. § 20501(a)(2). And it is the duty of “Federal, State, and local governments to implement this chapter . . .”. 52 U.S.C. § 20501(b)(2). The State of Texas has combined state and federal voter registration; thus, the ability to vote in state and local elections will be affected by any federal violation in the registration process. *See ACORN v. Miller*, 129 F.3d 833, 837 (6th Cir. 1997) (explaining that NVRA registration requirements will affect state and local elections). More importantly, there is nothing in the NVRA stating that a voter must be disenfranchised in a federal election before they can bring an enforcement action. In fact, nothing in the NVRA states that a voter must be disenfranchised at all. *See* 52 U.S.C. § 20510 (b)(1) (“A person who is aggrieved *by a violation of this chapter* . . .”). The courts have recognized organizational plaintiffs’ standing under the

NVRA to sue states with unlawful registration procedures and they do not require the organizational members to be disenfranchised. *See, e.g., Scott*, 771 F.3d at 837 (standing conferred because organization expended resources on voter register drives outside public assistance agencies); *Fowler*, 178 F.3d at 360-61 (same). To require more from an individual voter like Dr. Woods who personally went through the process is inconsistent with the plain language of the statute and basic principles of standing.

#### D. Waiver of immunity

Defendants also assert that Plaintiffs have failed to validly invoke the NVRA's limited waiver of immunity and are not entitled to bring an action under the *Ex parte Young* exception to immunity.

The NVRA imposed voter registration requirements on the states to ensure that all practical barriers that make voter registration more restrictive or inconvenient are removed. More than thirty years later, there are states that still refuse to comply with its mandates. Congress's abrogation of immunity under the NVRA is clear and unequivocal. When a state fails to comply with the Act, the Act authorizes judicial intervention. The Attorney General can seek declaratory or injunctive relief, and the Act establishes a private right of action for individuals aggrieved by a violation who meet the Act's notice requirement. 52 U.S.C. § 20510(a),(b). Defendants admit that they "each play a part in implementing the NVRA in Texas." Docket no. 82, p. 4. SOS is chief election officer, and DPS is a voter registration agency. *Id.* As such, they may be sued in any enforcement action arising from violations. The evidence in this record clearly shows that Plaintiffs met the Act's notice requirement and gave Defendants an opportunity to cure. This private enforcement action is now appropriately before the Court. Moreover, the Supreme Court has long recognized Equal Protection claims of this nature against state officials tasked with carrying out laws that affect the rights of voters. *Crawford v. Marion*

*County*, 553 U.S. 181 (2008) (Equal Protection claim against the Indiana Secretary of State and others challenging state voter ID law); *Burdick v. Takishi*, 504 U.S. 428 (1992) (voter's Equal Protection claim against Hawaii Director of Elections and others challenging state write-in voting prohibition).

E. Renewal v. change of address

Defendants also allege that Plaintiffs' challenge should be restricted to online change of address transactions, not online renewal transactions, because Plaintiffs' transactions were for a change of address rather than renewal. However, this argument seems to go to the underlying reason for the transaction, rather than the lawfulness of the process being challenged. Regardless of whether a Texan seeks to change his address or renew his driver's license online, the process is the same and the outcome is the same. DPS uses the same website (Texas.gov) and the same "Driver's License Renewal and Change of Address" system, which authenticates users, detects eligibility, and processes data in the same manner for both renewals and changes of address. Docket no. 94-9, deposition of E. Hutchins, at 30:4-31:16; 33:8-34:1; docket no. 94-12, deposition of S. Gipson, at 37:10-16 (the process is combined online, "it's one system interface"); docket no. 93, website links and exh. A-1, A-2, A-10 (DPS/Driver's License Division online process for driver's license renewal and/or change of address). Neither type of transaction, using the same online process, allows simultaneous applications for voter registration as required by the NVRA. Docket no. 94-12, deposition of S. Gipson, at 37:10-40:5. Given that Defendants have chosen to combine the online process and use the same system for both change of address and renewal transactions, a change in programming to allow online simultaneous voter registration would mean a change for both types of transactions. Likewise, an NVRA violation in online change of address transactions imputes a violation in online renewal transactions because Defendants admit that the online process (which encompasses both) does

not allow simultaneous voter registration. Having combined the online process for both types of transactions, both types of transactions fall within the same mandates under 52 U.S.C. §§ 20503(a)(1) and 20504 and will be affected by any relief granted herein. *Accord Miller*, 129 F.3d at 837 (the State chose, as a matter of convenience, to implement one voter registration process for federal, state, and local elections; thus, the registration obligations imposed by the Act affect registration procedures associated with state and local elections). For these reasons, the issue to be examined is whether DPS's online process for driver's license renewal and change of address violates the NVRA by failing to allow simultaneous applications for voter registration.

In sum, the jurisdictional challenges and defenses raised in Defendants' motion for summary judgment are virtually identical to those raised in their motion to dismiss, which the Court previously denied. Docket no. 52. Nothing in the law or the record compels a different conclusion at this stage of the proceedings.

#### F. Merits of the NVRA claims

First, Plaintiffs contend Defendants have violated and continue to violate the NVRA by failing to provide simultaneous applications for voter registration during online driver's license transactions. Second, Plaintiffs contend Defendants have violated and continue to violate the NVRA by requiring motor voters who use the online process to take additional steps to update their voter registration and separately submit information through a different transaction with a different agency that duplicates information required in the driver's license transaction. And third, Plaintiffs allege that Defendants have violated the NVRA by failing to ensure eligible applicants are registered to vote and to transmit voter registration information submitted online to the appropriate State election official within the statutorily required timeframe. Docket no. 1, pp. 15-17.

1. Statutory interpretation

Because the parties disagree on the meaning of some of the applicable provisions in the NVRA, the Court is guided by the governing principles of statutory construction. The first step is to determine whether the statutory text, when considered in context, is plain and unambiguous. If the statutory language is plain, the Court must enforce it according to its terms. *King v. Burwell*, 135 S.Ct. 2480, 2489 (2015) (citing *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251 (2010)). “[O]ftentimes the ‘meaning – or ambiguity – of certain words may only become evident when placed in context.’” *Id.* (citing *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 132 (2000)). “So when deciding whether the language is plain, we must read the words ‘in their context and with a view to their place in the overall statutory scheme.’” *Id.* (quoting, in part, *Brown & Williamson*, 529 U.S. at 133). “Our duty, after all, is ‘to construe statutes, not isolated provisions.’” *Id.* (quoting, in part, *Graham County Soil and Water Conservation Dist. v. United States ex rel. Wilson*, 559 U.S. 280, 290 (2010)). “A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law.” *King v. Burwell*, 135 S.Ct. at 2492 (quoting *United Sav. Assn. of Tex v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988)). The Court cannot interpret a federal statute in a manner that negates its own stated purpose. *See id.* at 2495; *see also New York State Dept. of Social Servs. v. Dublino*, 413 U.S. 405, 419-20 (1973).

2. The NVRA applies to motor voter transactions conducted online

The requirements in the NVRA clearly apply to online transactions (also known as electronic, remote, or internet transactions). There is nothing in the statute that expressly or impliedly excludes online transactions; instead, the plain language of the NVRA indicates that it applies to all transactions. *See* 52 U.S.C. §§ 20504 (a)(1) (“*Each* State motor vehicle driver’s



license application . . .”) and (d) (“*any* change of address form . . .”) (emphasis added).

Numerous courts have determined that the NVRA applies to online or remote transactions with the same force as it applies to in person and mail transactions. *See, e.g., Action NC v. Strach*, 216 F.Supp. 3d 597, 622-23 (M.D.N.C. 2016) (“[the] words ‘each’ and ‘any’ as used in NVRA provision requiring that each state motor vehicle driver’s license application serve as application for voter registration and that any change of address form submitted shall serve as notification of change of address for voter registration were unambiguous and reflected Congress’ intent to make the NVRA applicable to ‘each’ and ‘every’ covered transaction, irrespective of whether the transaction occurred remotely or in person”); *Kemp*, 841 F. Supp. 2d at 1331-32 (explaining that the NVRA cannot be read to cover only in-person transactions and Georgia’s limited interpretation and implementation that excluded internet transactions conflicted with its acknowledgment that noncompliance likely led to decline in voter registration as more applicants prefer to apply remotely).

Defendants have not argued that the NVRA does not apply to online or remote transactions. In fact, they have admitted that compliance with the NVRA is required for online transactions. *See* docket no. 77, appx. 65, deposition of S. Gipson (DPS), at 94:5-12 (Q: Why does DPS include a voter registration question during the online renewal and change of address portion? A: So it is part of the plan between the Secretary of State and Department of Public Safety in compliance with the voter registration question being combined as part of the application process for a driver license or ID”); 95:5-15 (Q: What requires you to do that? A: ... basically the NVRA and Chapter 20 of the Election Code and Texas Statute.); docket no. 94-8, deposition of S. Gipson at 136:20-23 (Q: Why does DPS require customers to answer that question if they don’t even retain the answer? A: The – because we need to offer them the availability of the application); docket no. 94-11, deposition of K. Ingram (SOS), at 62:4-8 (Q:

Why is there a voter registration question on the online DPS transaction – application? . . . A: Well, I imagine it’s because of Section 5 of the National Voter Registration Act of 1993. Q: Could you elaborate on that a little bit? A: Sure. The National Voter Registration Act of 1993 required that motor vehicle agencies, in our case the DPS, whenever a person has a driver’s license transaction – driver’s license transaction, that they should be simultaneously offered the right – the ability to update their voter registration or register to vote for the first time. That’s why the NVRA is called the Motor Voter law.”). Yet Defendants’ compliance with the NVRA falls short when it comes to online transactions. Texans have repeatedly complained about DPS’s failure to process voter registration information through its online system, but Defendants still refuse to correct the deficiencies. Thus, rather than furthering the purpose of the NVRA by “establish[ing] procedures that will increase the number of eligible citizens who register to vote,”<sup>34</sup> the State is thwarting the efforts of Texans who wish to register to vote.

### 3. The “simultaneous application” requirement

Congress was not subtle about requiring DPS, a voter registration agency, to provide a simultaneous application for voter registration. The terms are used more than once in the statute, and its plain meaning is clear and unambiguous. Section 20503, titled “National procedures for voter registration for elections for Federal office,” directs that “each State shall establish procedures to register to vote . . . by application made *simultaneously* with an application for a motor vehicle driver’s license.” 52 U.S.C. § 20503(a)(1). Defendants do not dispute the meaning

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<sup>34</sup>52 U.S.C. § 20501(b)(1)

of “simultaneous,” which is defined as “existing or occurring at the same time; exactly coincident,”<sup>35</sup> or “happening or existing at exactly the same time,”<sup>36</sup> or “occurring, operating, or done at the same time.”<sup>37</sup>

Section 20504, titled “*Simultaneous application for voter registration and application for motor vehicle driver’s license*” explains this requirement as one simultaneous application form that serves dual purposes – driver’s license and voter registration. This section, when read in context, not only requires that the applications be simultaneous, but discusses them in terms of a single transaction. Under subsection (a), each State motor vehicle driver’s license application “(including any renewal application) . . . shall serve as an application for voter registration” and “[a]n application for voter registration . . . shall be considered as updating any previous voter registration by the applicant.” Under subsection (c), “[e]ach State shall include a voter registration application form . . . as part of an application for a State motor vehicle driver’s license,” and the “voter registration application portion of an application for a State motor vehicle driver’s license . . . may not require any information that duplicates information required in the driver’s license portion of the form.” 52 U.S.C. § 20504(a),(c). Under subsection (d), “[a]ny change of address form” . . . for purposes of a State motor vehicle driver’s license shall serve as notification of change of address for voter registration . . . unless the registrant states on the form that the change of address is not for voter registration purposes.” 52 U.S.C. § 20504(d).

Defendants seem to have a clear understanding of what the statute requires, yet they distort the statutory language in the interpretations they propose. For example, Mr. Ingram with SOS testified that “the NVRA requires a simultaneous opportunity to register to vote.” See

<sup>35</sup><https://www.merriam-webster.com/dictionary/simultaneous>

<sup>36</sup><https://dictionary.cambridge.org/us/dictionary/english/simultaneous>

<sup>37</sup><https://en.oxforddictionaries.com/definition/simultaneous>

docket no. 77, appx. 40, deposition of K. Ingram, at 63:15-16; 64:24-25; *see also* appx. 113, RFA no. 4 (inserted the word “opportunity” when asked to admit their legal obligations under the NVRA). Defense counsel uses the same “simultaneous opportunity” argument in their briefs. But the NVRA plainly and unequivocally requires DPS, a voter registration agency, to provide a simultaneous application – not merely a “simultaneous opportunity” to go through a second duplicate application process with SOS. “Opportunity” could mean many things, but we do not need to speculate about what it means because the NVRA does not use that term. Likewise, Ms. Gipson testified that DPS “need[s] to offer them the availability of the application.” Docket no. 94-8, deposition of S. Gipson, at 136:20-23. But the NVRA requires more than simply making voter registration applications “available.” Again, making applications “available” could mean many things but the NVRA does not use that term. The operative terms in the NVRA are much more commanding and specific: it clearly and unequivocally requires a “simultaneous application” with DPS (the voter registration agency), not a mere “opportunity” to go through a wholly separate, non-simultaneous application process with SOS. If the Court were to accept the argument that DPS can simply direct Texans to SOS to obtain, fill out, sign, and mail in or deliver in person a wholly separate voter registration form, the language in the NVRA would be rendered meaningless. Plaintiffs are correct in their assertion that the central fact of this case has never been disputed: when eligible Texans update their driver’s licenses online with DPS, they are not provided a simultaneous application to register to vote or update their voter registration information. The NVRA’s requirement that DPS, a voter registration agency, provide a simultaneous application for both driver’s license and voter registration purposes is plain and unambiguous and the facts in the record confirm that Texans are being deprived of this statutory right. Docket no. 77, appx. 118, admission no. 8 (Defendants admit that now when applicants reach Step 5 of the online process, they are asked “Do you want to request a voter application?”);

admission no. 11 (Defendants admit that if an eligible voter checks “yes” under the question “Do you want to request a voter application?,” they are not registered to vote . . . unless they submit an image of their signature, either by submitting a signed application *by mail*, or providing an electronic image of their physical signature *in person* at a DPS location) (emphasis added); appx. 121, admission no. 9 (Defendants admit that a “Yes” answer during an online transaction is never entered as a response in the Voter Field for purposes of forwarding the information to SOS); appx. 123, admission nos. 21, 23 (Defendants admit that when an eligible voter who updates his or her driver’s license information on the current DPS website responds “yes” under the statement “Request a voter registration application,” DPS does not transfer his or her data to SOS); appx. 96, admission no. 8 (Defendants admit that an eligible voter who changes the address on her non-commercial Texas driver’s license online must submit a signed voter registration application *in person or by mail* in order for his voter registration information to be updated. The DPS and Texas.gov online interface links such voters to an application they may *print out, sign, and mail*, and also gives such voters the *option to request that a voter registration application be mailed to them*, postage paid, and contains language indicating that the *separate form* must be filled out in order to complete the voter’s registration) (emphasis added); appx. 98, admission no. 12 (information voters submit to the DPS change of address online portal relating to voter registration is not transmitted to SOS); *see also* docket no. 77, appx. 33, DPS Voter Inquiry Web Portal (informing the public that online registration is not possible, and persons seeking voter registration must print, sign, and deliver the application to the voter registrar in their county); appx. 133, driver’s license renewal and change of address receipt (showing that a separate voter registration application may be requested). Thus, it is clear that Defendants are violating 52 U.S.C. §§ 20503 and 20504 by failing to comply with the simultaneous application requirement.

#### 4. The duplicate information prohibition

To further the simultaneous application requirement, Congress saw fit to prohibit the states from requiring duplicate information. The prohibition against duplicate information is plain and unambiguous, leaving no room for argument as to its meaning. Section 20504(c)(2)(A) clearly states that “[t]he voter registration application portion of an application for a State motor vehicle driver’s license may not require any information that duplicates information required in the driver’s license portion of the form.” This prohibition reinforces the simultaneous application requirement because an application that is truly simultaneous does not require duplication. On the other hand, any process that requires duplication of information is an indication that the voter registration “portion” of an application for a State motor vehicle driver’s license is not truly simultaneous. The NVRA does permit states to seek a “minimum amount” of additional information that may be necessary for “State election officials to assess the eligibility of the applicant” for voter registration purposes. 52 § 20504 (c)(2)(B),(C). But the minimum information necessary to verify voter registration eligibility cannot duplicate the information already provided for driver’s license purposes. For example, some states do not require citizenship to obtain a driver’s license, so those states could include a citizenship question in the voter registration portion of the application without violating the duplicate information prohibition. But Texas DPS requires an applicant to answer a citizenship question for driver’s license purposes; thus, another duplicate question about citizenship for voter registration purposes would violate this prohibition.

Defendants’ violation of the duplicate information prohibition is indisputable, and has continued unabated. Defendants admit that none of the information in the online application for driver’s license renewal or change of address is used for voter registration purposes. At the end of the DPS transaction, a “yes” answer does not mean that the information already provided will



be used for voter registration purposes pursuant to the NVRA. Instead, the DPS transaction ends, none of the information already provided is forwarded to SOS, and the user is directed to SOS for an entirely separate voter registration application that requires the same information already provided to DPS in the driver's license transaction. It is a separate and distinct transaction with a separate office (SOS) which requires a separate and distinct application with duplicate information. Docket no. 77, appx. 96, admission no. 8 (Defendants admit that upon completion of the DPS transaction, a voter must follow the link to SOS and then "request that a voter registration be mailed to them . . . and [the portal] contains language indicating that the separate form must be filled out in order to complete the voter's registration"); appx. 132 (change of address transaction informs users that their DPS transaction does not register them to vote and they must follow link to SOS website where a separate voter application form can be downloaded or requested); appx. 134 (separate voter registration application provided by SOS that must be printed, signed, and mailed); docket no. 93, exh. A-3 (same); exh. A-4 (SOS information page explaining: a) voter registration application forms can be accessed online through SOS (not DPS, the voter registration agency); b) the application can be filled out on the computer, printed, and mailed to the voter registrar in the voter's county of residence; and c) informing voters that they will not be registered until all steps are completed); docket no. 94-12, deposition of S. Gipson, at 218:2-219:16 (explaining that at end of DPS transaction, the customer is directed to SOS if he wants to register to vote or update his voter registration information).

In Texas, DPS requires applicants seeking a renewal and/or change of address to provide several pieces of information, including their name, address, driver's license number, date of birth, and the last four digits of their Social Security number. Docket no. 94-8, deposition of S. Gipson, at 234:2-9; docket no. 94-9, deposition of E. Hutchins, at 25:11-22; docket no. 77, appx. 130. When customers finish their transaction with DPS and then go to SOS to fill out a

completely separate application for voter registration purposes, they must provide the same information : name, address, driver's license number, date of birth, and the last four digits of their Social Security number. Docket no. 77, appx. 134 (voter registration application); docket no. 94-7, deposition of B. Schonhoff, at 157:19-158:18 (both the DPS change of address form and SOS voter registration form ask the person's name, date of birth, and address; applicants would have to fill this information out twice). Requiring motor voters to go to a different agency (SOS) to obtain and fill out a separate application that requires the same information violates the prohibition against duplicate information set forth in 52 U.S.C. § 20504(c).

5. The timely submission requirement

The NVRA also requires that “a completed voter registration portion of an application for a State motor vehicle driver's license accepted at a State motor vehicle authority shall be transmitted to the appropriate State elections official not later than 10 days after the date of acceptance.” 52 U.S.C. § 20504(e)(1). The deadline for transmittal is shorter (five days) if the voter registration application is accepted within five days before the last day for registration to vote in an election. 52 U.S.C. § 20504(e)(2). Because the evidence in the record shows that DPS does not provide simultaneous voter registration as part of the online driver's license renewal and change of address process, DPS does not transmit to SOS any voter registration information in connection with such transactions. In fact, it is undisputed that DPS does not even record, and therefore cannot transmit, motor voters' responses to the voter registration question in the online driver's license renewal and change of address application. Docket no. 94-8, deposition of S. Gipson at 136:10-19; docket no. 77, appx. 67, deposition of S. Gipson at 102:10-19:103:16-25; docket no. 94-7, deposition of B. Schonhoff at 159:23-160:3; 220:18-23.

As a voter registration agency, DPS has a statutory duty to provide motor voters with simultaneous voter registration applications *and* transmit the applications to SOS within 10 days after acceptance. DPS admits it does not submit voter registration information to SOS for online transactions conducted by motor voters “[b]ecause [they] have not been advised by the Secretary of State that providing that through the online process is permissible at this point.” Docket no. 77, appx. 67, deposition of S. Gipson at 103:16-25. The NVRA’s timely submission requirement continues to be violated in every online renewal and change of address transaction.

6. State law must yield to federal law

The facts in the record lead to only one conclusion: DPS, a voter registration agency, does not provide a simultaneous voter registration application to motor voters who engage in online driver’s license transactions. Instead, motor voters are simply directed to SOS, which requires them to fill out a completely separate voter registration application with duplicate information, and then print, mail, and/or hand deliver it to the voter registrar. But Defendants have refused to change their practice, claiming that Texas election law does not allow the procedure dictated by the NVRA. This argument is fatally flawed.

Defendants claim that the NVRA incorporates Texas election law, making it subject to state law, and rely on the following provisions:

(a) In general

- (1) *Each State motor vehicle driver’s license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration . . .*

\* \* \*

(d) Change of address

*Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration . . .*

52 U.S.C. § 20504(a)(1), (d).

These provisions neither incorporate Texas election law nor make it subject thereto. Instead, the plain language of these provisions, when considered in context and with a view to their place in the overall statutory scheme, simply mean that driver's license applications submitted in accordance with state driver's license laws (i.e., the Texas Transportation Code), shall also serve as applications for voter registration purposes. The reference to state law in these provisions cannot be interpreted to mean the NVRA is dictated by the election laws of 50 different states, as it would be contrary to the plain language of the statute, require the Court to take it out of context, and render the NVRA entirely meaningless. The NVRA was enacted under the Elections clause, U.S. Const. Art. I § 4, cl. 1, which gives Congress the broad power to preempt, alter, and supplant state law when it comes to federal voter registration practices. *Arizona v. InterTribal County of Arizona, Inc.*, 570 U.S. 1, 133 S. Ct. 2247, 2253-57 (2013). (“The Clause’s substantive scope is broad” and “Elections Clause legislation, so far as it extends and conflicts with the regulations of the State, necessarily supersedes them”). To the extent state voter registration procedures are inconsistent with the NVRA, they are superseded. *Id.* at 2253-54 (“the state law, so far as the conflict extends, ceases to be operative”). On the other hand, the NVRA does not supplant state driver's license laws. Thus, interpreting the provisions in 52 U.S.C. § 20504(a)(1) and (d) to mean that driver's license applications submitted in accordance

with the Texas Transportation Code shall also serve as applications for voter registration purposes is consistent with the purpose of the Act and the entire statutory scheme.

Defendants have consistently argued that DPS, the voter registration agency tasked with carrying out the mandates of the NVRA, cannot provide motor voters with simultaneous driver's license - voter registration applications because Texas election law requires a physical signature. In other words, Defendants claim that a physical signature written by hand is necessary to comply with Texas election law; therefore, although online driver's license transactions are legally valid, a simultaneous voter registration application would be legally invalid. Again, this argument is flawed for several reasons.

First, Texas law cannot be used as an excuse for failing to comply with the NVRA. To the extent it is inconsistent with the NVRA, the Texas Election Code must yield to the NVRA. Moreover, Defendants have simply cherry-picked the provisions they believe justify their continued noncompliance. Defendants believe sections 13.002(b) and 15.021(a) of the Texas Election Code (requiring an application to be "signed") support their position,<sup>38</sup> but they ignore section 20.062 (requiring DPS to use a form and procedure that combines driver's license/renewal/change of address with voter registration), which does not support their position.<sup>39</sup> Defendants' reliance on Texas election law as an excuse for federal noncompliance is misplaced because it is preempted, altered, and supplanted by the mandates in the NVRA. But even if Texas

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<sup>38</sup>Docket no. 94-11, deposition of K. Ingram, at 97:15-24; docket no. 77, appx. 42 (Q: What portion of the law doesn't allow it? A: 13.002(b)).

<sup>39</sup>Section 20.062(a) states: The Department of Public Safety shall prescribe and use a form and procedure that combines the department's application form for a license or card with an officially prescribed voter registration application form. Section 20.062(b) states: The department shall prescribe and use a change of address form and procedure that combines department and voter registration functions. The form must allow a licensee or cardholder to indicate whether the change of address is also to be used for voter registration purposes.

election law was not preempted, there is nothing in the law that precludes the use of electronic signatures.

Second, the NVRA does state that a simultaneous driver's license-voter registration application and any renewal application "requires the signature of the applicant." *See* 52 U.S.C. § 20504(a)(1), (c)(2)(C)(iii). The NVRA's change of address provision is separate, and does not state that a signature is necessary for a simultaneous driver's license-voter registration change of address. 52 U.S.C. § 20504(d). But even in renewal transactions that require a signature, neither the NVRA nor Texas election law defines or limits the type of signature that is required for voter registration renewal or change of address applications, and Defendants cite no authority for the proposition that it must be a physical ink signature written on paper by hand. With twenty-first century technology and legislation such as the Global and National Commerce Act (E-Sign Act) and Uniform Electronic Transactions Act (UETA), electronic signatures are legally recognized and widely used. 15 U.S.C. § 7001 et. seq.; Unif. Electronic Transactions Act, U.L.A. (1999). Under the Uniform Electronic Transactions Act, which has been adopted by Texas and 46 other states, the medium in which a signature is created, presented or retained does not affect its legal significance. *See* UETA § 7; Tex. Bus. & Com. Code Ann. § 322.007(a),(c),(d) (Vernon 2015) (TUETA). As these provisions explain:

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (c) If a law requires a record to be in writing, an electronic record satisfies the law.
- (d) If a law requires a signature, an electronic signature satisfies the law.

Interpreting the signature requirement in the NVRA to include electronic signatures is consistent with the purpose of the Act and the overall statutory scheme. *Accord Kemp*, 208 F. Supp. 3d at



1335-36 (Georgia SOS argued that the “records” requirement in the NVRA was limited to physical records; the court determined that the requirement includes electronic records). Mr. Ingram, the 30(b)(6) representative for SOS, admits that an electronic signature complies with the signatures requirements under the NVRA. Docket no. 77, appx. 40, deposition of K. Ingram at 62:18-63:1 (“DPS’s compliance with [the NVRA] for in-person transactions is [satisfied by] the question . . . on the DPS forms, ‘Do you want to register to vote? I’ve agreed to provide my electronic signature, and it can be sent to the Secretary of State’s Office.’”). If an electronic signature is legally sufficient under the NVRA for paper transactions, it is legally sufficient for online transactions. The NVRA established procedures to remove barriers to voter registration, to make the process easier and more convenient, and to increase voter participation. Interpreting the “signature” requirement to allow only physical, manual, or wet ink signatures written by hand on paper would be inconsistent with the plain language of the NVRA and the entire statutory scheme. And while Defendants continue to rely on Texas election law as a excuse for noncompliance with the NVRA, there is nothing in Texas law that precludes the use of electronic records and electronic signatures. On the contrary, Texas law permits SOS and DPS to accept electronic records and electronic signatures. *See* Tex. Bus. & Com. Code § 322.017 (each state agency has the option to accept electronic records and electronic signatures);<sup>40</sup> Tex. Bus. & Com. Code § 322.007 (“If a law requires a signature, an electronic signature satisfies the law.”).<sup>41</sup> And

<sup>40</sup> As Eiten Hersh noted, the refusal to accept electronic signatures appears to have been a state policy decision. *See* docket no. 94-13, deposition of E. Hersh, at 121:23-122:25. But state policy – like state law – must yield to the mandatory requirements under the NVRA.

<sup>41</sup> *See also* Tex. Bus. & Com. Code § 322.008(a) (“If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record . . .”); Tex. Bus. & Com. Code § 322.012 (“if a law requires that a record be retained, the requirement is satisfied by retaining an electronic record”); Tex. Govt Code § 2054.060 (“digital signature may be used to authenticate a written electronic communication sent to a state agency”); 1 Tex. Admin. Code §

it is undisputed that Texas is already using voter registration signatures in electronic form. *See* Tex. Election Code § 20.066 (for in person and mail transactions, the information provided is input “into the department’s electronic data system”; the applicant is informed “that the applicant’s electronic signature” will be used; and the department “electronically transfer[s] the applicant’s voter registration data, including the applicant’s [electronic] signature, to the secretary of state”); 1 Tex. Admin. Code § 81.58 (allowing a voter’s signature to be captured by an electronic device for the signature roster). Defendants provide no legal justification for failing to comply with the NVRA when it comes to online renewal and change of address transactions.

Finally, Plaintiffs are not asserting that all signature requirements be tossed out or ignored. Instead, they are asserting that Defendants already retain electronic signatures for every licensed motor voter in Texas and currently use those electronic signatures for both driver’s license and voter registration purposes; thus, there is no reason for refusing to use those same signatures for online renewal and change of address transactions. *See* docket no. 77, appx. 39, 42, deposition of K. Ingram at 50:1-11; 95:14-97:14; docket no. 77, appx. 69, 70, 79, deposition of S. Gipson at 203:19-204:7; 215:21-216:7; 234:21-235:1; 236:19-237:9. Even when a signature is required, that requirement may be satisfied with the electronic signature that is on file for every Texas motor voter.<sup>42</sup> There is no legal impediment to using electronic signatures, and there is no technological barrier to online transactions that allow simultaneous renewal and change of address for driver’s license and voter registration. *See* docket no. 94-7, deposition of B. Schonhoff, at 222:9-22; docket no. 77, appx. 45, deposition of K. Ingram at 184:12-185:1; 186:5-203.24 (describing technology that may be acceptable for use by state agencies).

<sup>42</sup>Because every Texan must provide an electronic signature when they obtain their original driver’s license, and the online process only involves the renewal of an existing driver’s license or a change of address on an existing driver’s license, it is undisputed that the State of Texas already has preexisting electronic signatures for every motor voter that uses the online system.

16; docket no. 94-9, deposition of E. Hutchins at 99:22-100:2; docket no. 94-10, deposition of J. Crawford at 142:6-18; 143:12-144:21 (DLS could send all the information it currently obtains to the Secretary of State's office, and "it could also send the previously provided electronic signature from that customer, just like it does with a mail-in change of address"); docket no. 94-13, deposition of Eitan Hersh at 34:20-23 ("my opinion is that there are no obvious substantial technical reasons why Texas does not do that or financial situations why Texas does not do that"); 110:6-111:13 (. . . "it [could] transmit, just as it does now for mail and in-person transactions, the previously-recorded digital signature of the voter because everyone who is renewing or changing their address online has a digital signature stored at the DPS"); 115:15-25 (38 other states have an online process for voter registration).

G. Merits of the Fourteenth Amendment claim

Plaintiffs also assert that Defendants' refusal to provide voter registration applications simultaneously with online driver's license renewal and change of address transactions constitutes a violation of their Equal Protection rights under the Fourteenth Amendment.<sup>43</sup> The right to vote is a fundamental right protected under the Equal Protection Clause of the Fourteenth Amendment. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966). "The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise." *Bush v. Gore*, 531 U.S. 98, 104 (2000) (per curiam). The Equal Protection Clause applies when state procedures restrict voters' rights. *Bush v. Gore*, 531 U.S. at 103 (Supreme Court found that Florida's failure to institute reliable recount procedures violated the Equal Protection Clause); *Obama for Am. v. Husted*, 697 F.3d 423, 436-37 (6th Cir. 2012)

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<sup>43</sup>"The rights and remedies established by [the NVRA] are in addition to all other rights and remedies provided by law." 52 U.S.C. § 20510(d)(1).

(Circuit court found that Ohio law that prevented casting of early ballots by non-military voters violated the Equal Protection Clause).

1. Applicable standard

The parties disagree on the applicable standard of review. Plaintiffs assert that the *Anderson-Burdick*<sup>44</sup> standard applies (docket no. 77, pp. 19-23; docket no. 85, pp. 16-17), while Defendants assert that an *Arlington Heights*<sup>45</sup> strict scrutiny analysis or *City of Cleburne*<sup>46</sup> heightened scrutiny analysis applies (docket no. 82, p. 24; docket no. 88, pp. 19-20). Because this case involves a challenge to a state voter registration procedure that is alleged to unfairly restrict the right to vote and harm voter participation, the more flexible *Anderson-Burdick* standard applies. *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (“to subject every voting regulation to strict scrutiny and to require that the regulation be narrowly tailored to advance a compelling state interest, as petitioner suggests, would tie the hands of States seeking to assure that elections are operated equitably and efficiently”).<sup>47</sup> Under this standard, “[a] court considering a challenge to a state election law must weigh the character and magnitude of the asserted injury to the rights protected by the [Constitution] that the plaintiff seeks to vindicate against the precise interests

<sup>44</sup>*Anderson v. Celebrezze*, 460 U.S. 780 (1983) and *Burdick v. Takushi*, 504 U.S. 428 (1992).

<sup>45</sup>*Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252 (1977).

<sup>46</sup>*City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432 (1985).

<sup>47</sup>*See also Voting for Am., Inc. v. Steen*, 732 F.3d 382 (5th Cir. 2013) (Fifth Circuit applied *Anderson-Burdick* analysis in challenge to state law regulating volunteer deputy registrars); *Tex. Democratic Party v. Williams*, 285 Fed. Appx. 194, 195 (5th Cir. 2008) (per curiam) (noting that district court properly applied *Anderson-Burdick* balancing test to the constitutional claims challenging use of eSlate voting machines), *cert. denied*, 555 U.S. 1100 (2009); *Faas v. Cascos*, 225 F. Supp. 3d 604, 610 (S.D. Tex. 2016) (State election laws “could hardly serve their legitimate purposes if they were routinely subject to strict scrutiny . . . [thus], [t]he United States Supreme Court recognized the need for a more flexible analytical framework in two landmark cases: *Anderson* and *Burdick*”).

put forward by the State as justification for the burden imposed by its rule, taking into consideration the extent to which those interests make it necessary to burden the plaintiff's rights." *Burdick*, 504 U.S. at 434 (internal quotes omitted). "However slight the burden [to the voters] may appear, . . . it must be justified by relevant and legitimate state interests sufficiently weighty to justify the limitation." *Crawford v. Marion Cty. Elec. Bd.*, 553 U.S. 181, 191 (2008).

## 2. Analysis

"[V]oting is of the most fundamental significance under our constitutional structure," *Burdick*, 504 U.S. at 433, and unfair registration procedures can have a direct and damaging effect on voter participation. *See* 52 U.S.C. § 20501(a)(3) (Congressional findings). While the State can impose reasonable restrictions, those restrictions must be justified by specific interests that outweigh the burden on voters. The undisputed facts show that Defendants permit simultaneous voter applications for motor voters that renew or change their driver's license in person or by mail, but refuse simultaneous voter applications for motor voters that renew or change their driver's license online. Motor voters that renew or change their driver's license in person or by mail need only check a single box indicating that he would like to register or update his voter information. After checking the box on the driver's license form, no further steps are necessary. DPS sends the updated information to SOS in nightly batches, so the voter registration is updated timely and efficiently. However, motor voters that renew or change their driver's license online are denied the same process. Online motor voters must end their DPS driver's license transaction, and then go to SOS to obtain, print, and complete a separate voter registration application which requires duplicate information.<sup>48</sup> Once the additional application is complete, it

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<sup>48</sup>*See generally* pp. 17-19, *supra*.

must be mailed or hand delivered.<sup>49</sup> DPS, a voter registration agency, maintains a procedure that accepts simultaneous voter registration applications for some, while rejecting them for others. This type of restriction on voter registration imposes a burden on the fundamental right to vote that warrants the demonstration of a corresponding interest sufficiently weighty to justify the limitation.

Defendants' only justification for the voter registration burden imposed on motor voters is the "signature" requirement under Texas election law. However, neither federal nor state law limits the signature requirement to physical hand written signatures on paper.<sup>50</sup> Electronic signatures and electronic records are legally recognized and widely used, and Defendants offer no reason for refusing to accept them for online motor voter transactions.<sup>51</sup> DPS already uses electronic records and previously imaged electronic signatures for every Texan that uses the online system for driver's license renewal or change of address.<sup>52</sup> SOS admits that electronic signatures comply with signature requirements under the NVRA and Texas Election Code.<sup>53</sup> SOS admits it never uses physical, manual, or wet ink handwritten signatures on paper for voter

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<sup>49</sup>*See id.*

<sup>50</sup>*See pp. 52-55, supra.*

<sup>51</sup>*See id.*

<sup>52</sup>Docket no. 77, appx. 70, deposition of S. Gipson at 215:21-216:7 (for online transactions, Texas has decided that a previously captured electronic signature is sufficient for driver's license purposes, but they refuse to accept the same signature for voter registration purposes); Stipulation no. 11, p. 5, *supra* ("The signature that appears on the license generated as a result of a customer's online driver's license renewal or change of address transaction is an image of the applicant's physical signature, electronically captured during the applicant's most recent in-person transaction").

<sup>53</sup>Docket no. 77, appx. 39-40, 42, K. Ingram deposition at 50:1-6; 62:4-63:1; 97:4-14.



registration purposes.<sup>54</sup> DPS already has, in its possession and control, an electronic signature of every motor voter that has been issued a license. With motor voters' electronic signatures already in the voter registration agency's possession, there is no reason why Defendants could not register them to vote in a simultaneous online transaction.

Neither the law nor the facts support Defendants' alleged justification for limiting simultaneous voter applications to in-person and mail motor voter transactions and refusing simultaneous voter applications for motor voters that renew or change their driver's license online. Because the alleged justification is not legitimate, there is no state interest that outweighs the burden imposed on voters. Defendants fail to demonstrate a corresponding interest sufficiently weighty to justify the limitation on voters' rights.

Not only have Defendants failed to justify their actions, but they also acknowledge that permitting simultaneous voter applications for motor voters that renew or change their driver's license online would be technologically very feasible and the cost would be minimal.<sup>55</sup> In fact, the undisputed testimony reflects that changing the online process to include simultaneous voter

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<sup>54</sup>Docket no. 77, appx. 39, K. Ingram deposition at 50:7-11 (Q: What's the ink signature on the DPS's physical form used for as far as voter registration? A: I don't know. I don't know if it's used for anything. Once they've applied in person at the office, they've signed it electronically"); docket no. 77, appx. 117, RFA 26 ("Admits that the information DPS transmits to SOS about each applicant for voter registration includes a digital image of the applicant's signature"); docket no. 77, appx. 122, RFA 13 (Defendants admit that prior to transmission to SOS, the DPS computer system locates records that [include] a "Signature Image"); docket no. 77, appx. 118, RFA 10, 11 (Defendants admit that individuals are not registered to vote in connection with their interactions with DPS unless they submit an electronic image of their signature).

<sup>55</sup>See docket no. 77, appx. 45-46, deposition of K. Ingram at 184:19-185:2 (it's "technically possible" and "I don't think it would cost a lot of money"), 186:15-16 ("I'm not contesting the logistics of it"); docket no. 77, appx. 90, deposition of J. Crawford (from an IT perspective, DLS is currently capable of sending the voter data and electronic signature to SOS); *see also* docket no. 94-13, deposition of E. Hersh at 110:6-10 (it would be a "massive cost savings"); 111:10-13 (the savings would be statewide); report of E. Hersh at pp. 6, 12-15 (the technology clearly exists for state motor vehicle authorities that allow online transactions).

registration applications would very likely lead to greater efficiency for the State and increased voter registration for Texans.<sup>56</sup> *See Anderson*, 460 U.S. at 806 (even if the State has legitimate interests, if the State also has open to it a less drastic way of satisfying those interests it may not choose a scheme that restricts the right to vote).

## VI.

### Conclusion

DPS encourages Texans to use its online services to renew their driver's license and change their address because it is easier and more convenient.<sup>57</sup> It cannot, at the same time, deny simultaneous voter registration applications when those online services are used. DPS is legally obligated, as a designated voter registration agency under the NVRA, to permit a simultaneous voter registration application with every transaction. Asking motor voters whether they are interested in voter registration and sending them to SOS for an entirely separate application process is not enough. The NVRA demands much more from voter registration agencies. Defendants are violating §§ 20503(a)(1); 20504(a),(c),(d), and (e); 20506(4)(A)(iii), and (d); and 20507(a)(1)(A) of the NVRA and their excuse for noncompliance is not supported by the facts or the law. Plaintiffs are also being denied equal protection under the law. Plaintiffs are entitled to the relief they are seeking herein.

It is therefore ORDERED Plaintiffs' Motion for Summary Judgment (docket no. 77) is GRANTED and Defendants' Motion for Summary Judgment (docket no. 82) is DENIED. Final

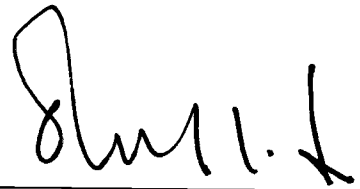
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<sup>56</sup>*See* docket no. 94-13, deposition of E. Hersh at 114:8-10; 114:24-115:14 (having people filling out information by hand and then having state employees key that information in electronically leads to more errors); report of E. Hersh at p. 4 (in 11 of the 38 states with online registration, the policy was adopted without any legislation, but simply as a technological upgrade to an existing governmental function); docket no. 85, appx. 25 (potential number of motor voters affected in average week and month).

<sup>57</sup>Docket no. 94-9, deposition of E. Hutchins, at 38:18-23; 39:12-19.

judgment will be entered separately, with costs, fees, and expenses to be taxed against Defendants. 52 U.S.C. § 20510(c). The parties shall submit a proposed form of judgment setting forth the necessary declaratory and injunctive relief, consistent with the Court's findings, within seven days from the date below.

SIGNED this 10 day of May, 2018.

  
\_\_\_\_\_  
ORLANDO L. GARCIA  
CHIEF U.S. DISTRICT JUDGE

# Exhibit C

FILED

DEC - 5 2019



IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature]

United States Court of Appeals  
Fifth Circuit  
DEPUTY CLERK

FILED

November 13, 2019

Certified as a true copy and issued  
is the mandate on Dec 05, 2019

No. 18-50428

Attest: Lyle W. Cayce  
Clerk, U.S. Court of Appeals, Fifth Circuit

D.C. Docket No. 5:16-CV-257 - ag Lyle W. Cayce  
Clerk

JARROD STRINGER; BENJAMIN HERNANDEZ; JOHN WOODS,

Plaintiffs - Appellees

v.

DAVID WHITLEY, In His Official Capacity as the Texas Secretary of State;  
STEVEN C. MCCRAW, in His Official Capacity as the Director of the Texas  
Department of Public Safety,

Defendants - Appellants

Appeal from the United States District Court for the  
Western District of Texas

Before OWEN, Chief Judge, and CLEMENT and HO, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and was argued by  
counsel.

It is ordered and adjudged that the judgment of the District Court is  
reversed, vacated and remanded to the District Court for further proceedings  
in accordance with the opinion of this Court.

IT IS FURTHER ORDERED that plaintiffs-appellees pay to defendants-  
appellants the costs on appeal to be taxed by the Clerk of this Court.

JAMES C. HO, Circuit Judge, concurring.



**FILED**

DEC - 5 2019

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY  Deputy Clerk  
United States Court of Appeals  
Fifth Circuit

**FILED**

November 13, 2019

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 18-50428  
\_\_\_\_\_

JARROD STRINGER; BENJAMIN HERNANDEZ; JOHN WOODS,

Plaintiffs–Appellees,

v.

DAVID WHITLEY, in His Official Capacity as the Texas Secretary of State;  
STEVEN C. MCCRAW, in His Official Capacity as the Director of the Texas  
Department of Public Safety,

Defendants–Appellants.

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas

5:16-cv-257-OLG

Before OWEN, Chief Judge, and CLEMENT and HO, Circuit Judges.

PRISCILLA R. OWEN, Chief Judge:

Texas’s Secretary of State and Director of Public Safety appeal a district court judgment declaring them in violation of the Equal Protection Clause and the National Voter Registration Act of 1993 and granting injunctive relief. We reverse the judgment because Plaintiffs do not have standing to pursue their claims.

**I**

Those who seek to renew their driver’s license in Texas or to change the address associated with their driver’s license can submit paper applications or



No. 18-50428

apply online using the Texas Department of Public Safety's (DPS) online system (DPS System). Paper applications ask the following voter registration questions: "If you are a US Citizen, would you like to register to vote? If registered, would you like to update your voter information?" Applicants answer by checking a box for "yes" or "no." DPS transfers the information provided by each applicant who answers "yes" to the Texas Secretary of State (the Secretary). The Secretary sends the applicant's information to local voter registrars, who use the data to complete the voter registration process.

Those using the online DPS System to renew their driver's license or to change the address associated with their driver's license are asked a different voter registration question: "Do you want to request a voter application? You will receive a link to a voter application on your receipt page." The DPS System receipt page states, "You are not registered to vote until you have filled out the online application, printed it, and mailed it to your local County Voter Registrar. Click here to Download a Voter Registration Application." DPS System users can access a voter registration application through the link on the receipt page. DPS does not send the Secretary the information provided by applicants who answer "yes" to the DPS System's voter registration question.

Plaintiffs Jarrod Stringer, Benjamin Hernandez, and John Woods each moved from a Texas county in which they were registered to vote to another Texas county between 2013 and 2015. Plaintiffs used the DPS System to change their driver's license addresses and selected "yes" in response to the voter registration question. Plaintiffs believed that they had updated their voter registration by doing so. Stringer and Hernandez discovered that they were not registered to vote in their new counties when they unsuccessfully attempted to vote in the 2014 federal election. Woods was informed that he was not registered to vote in his new county when he called a county authority



No. 18-50428

to confirm his polling location for the 2015 election. Woods and Hernandez submitted provisional ballots, which ultimately were not counted. All three plaintiffs were registered to vote in their new counties by the end of 2015.

Plaintiffs sued the Texas Secretary of State and the Director of the Texas Department of Public Safety, alleging that the DPS System violates the Equal Protection Clause and the National Voter Registration Act of 1993 (NVRA). Plaintiffs alleged that the DPS System violates a number of NVRA provisions, including 52 U.S.C. § 20504(d), which states “[a]ny change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license shall serve as notification of change of address for voter registration.”<sup>1</sup> Plaintiffs sought declaratory and injunctive relief, not damages.

Plaintiffs filed a motion for summary judgment. Texas filed a cross-motion for summary judgment, contending, *inter alia*, that Plaintiffs do not have standing to bring their claims. The district court granted summary judgment to Plaintiffs, holding that Plaintiffs have standing to bring their claims and that the DPS System violates the NVRA and the Equal Protection Clause.<sup>2</sup> The district court entered a final judgment granting Plaintiffs wide-ranging declaratory and injunctive relief. Texas appeals.

## II

We review questions of standing *de novo*.<sup>3</sup> To have Article III standing, a plaintiff must show an injury in fact that is fairly traceable to the challenged action of the defendant and likely to be redressed by the plaintiff’s requested relief.<sup>4</sup> Courts have divided this rule into three components: injury in fact,

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<sup>1</sup> 52 U.S.C. § 20504(d).

<sup>2</sup> *Stringer v. Pablos*, 320 F. Supp. 3d 862 (W.D. Tex. 2018).

<sup>3</sup> *Bonds v. Tandy*, 457 F.3d 409, 411 (5th Cir. 2006).

<sup>4</sup> *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992) (citations omitted).



No. 18-50428

causation, and redressability.<sup>5</sup> The party seeking to invoke federal jurisdiction, in this case the Plaintiffs, bears the burden of establishing all three elements.<sup>6</sup>

Requests for injunctive and declaratory relief implicate the intersection of the redressability and injury-in-fact requirements. The redressability requirement limits the relief that a plaintiff may seek to that which is likely to remedy the plaintiff's alleged injuries.<sup>7</sup> Because injunctive and declaratory relief "cannot conceivably remedy any past wrong,"<sup>8</sup> plaintiffs seeking injunctive and declaratory relief can satisfy the redressability requirement only by demonstrating a continuing injury or threatened future injury.<sup>9</sup> That continuing or threatened future injury, like all injuries supporting Article III standing, must be an injury in fact.<sup>10</sup> To be an injury in fact, a threatened future injury must be (1) potentially suffered by the plaintiff, not someone else;<sup>11</sup> (2) "concrete and particularized,"<sup>12</sup> not abstract;<sup>13</sup> and (3) "actual or imminent, not 'conjectural' or 'hypothetical.'"<sup>14</sup> The purpose of the requirement that the injury be "imminent" is "to ensure that the alleged injury is not too

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<sup>5</sup> See *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (referencing "the now-familiar elements of injury in fact, causation, and redressability").

<sup>6</sup> *Lance*, 549 U.S. at 439; *Lujan*, 504 U.S. at 561.

<sup>7</sup> *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 103 (1998) (citing *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 45-46 (1976)).

<sup>8</sup> *Id.* at 108.

<sup>9</sup> *City of Los Angeles v. Lyons*, 461 U.S. 95, 105 (1983) (stating that "Lyons' standing to seek the injunction requested depended on whether he was likely to suffer future injury from the use of the chokeholds by police officers[.] not whether he had previously been injured by the use of a chokehold").

<sup>10</sup> *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (quoting *Warth v. Seldin*, 422 U.S. 490, 498 (1975)).

<sup>11</sup> *Sierra Club v. Morton*, 405 U.S. 727, 734-35 (1972).

<sup>12</sup> *Susan B. Anthony List*, 573 U.S. at 158 (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992)).

<sup>13</sup> *Fed. Election Comm'n v. Akins*, 524 U.S. 11, 24 (1998) ("The abstract nature of the harm . . . prevents a plaintiff from obtaining what would, in effect, amount to an advisory opinion.").

<sup>14</sup> *Susan B. Anthony List*, 573 U.S. at 158 (quoting *Lujan*, 504 U.S. at 560).



No. 18-50428

speculative for Article III purposes.”<sup>15</sup> For a threatened future injury to satisfy the imminence requirement, there must be at least a “substantial risk” that the injury will occur.<sup>16</sup>

The district court did not apply this standard. The district court held that Plaintiffs had standing because they were “deprived of their individual right to simultaneous voter registration applications at the time they engaged in the online DPS transactions to change their driver’s licenses,” and “[c]ourt-ordered compliance with the NVRA would prevent repetition of the same injury to Plaintiffs and others.”<sup>17</sup> The injury identified by the district court—the “depriv[ation] of [Plaintiffs’] individual right to simultaneous voter registration applications *at the time they engaged in the online DPS transactions*”<sup>18</sup>—was not a continuing or threatened future injury, but a past injury. To the extent that the district court identified a continuing or threatened future injury, it did so when it stated that “[c]ourt-ordered compliance with the NVRA would prevent repetition of the same injury to Plaintiffs and others.”<sup>19</sup> However, whether compliance with the NVRA would prevent future injury to others is irrelevant; plaintiffs seeking injunctive relief must show a continuing or threatened future injury to themselves.<sup>20</sup> Standing also does not follow from the conclusion that the injunctive relief sought by a plaintiff would prevent the plaintiff from suffering the same injury in the future, which is always true when a plaintiff seeks an injunction prohibiting a defendant from repeating an action that injured the plaintiff in the past.

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<sup>15</sup> *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013) (quoting *Lujan*, 504 U.S. at 564 n.2).

<sup>16</sup> *Susan B. Anthony List*, 573 U.S. at 158 (quoting *Clapper*, 568 U.S. at 414 n.5).

<sup>17</sup> *Stringer v. Pablos*, 320 F. Supp. 3d 862, 883 (W.D. Tex. 2018).

<sup>18</sup> *Id.* (emphasis added).

<sup>19</sup> *Id.*

<sup>20</sup> *Sierra Club v. Morton*, 405 U.S. 727, 734-35 (1972).



No. 18-50428

Plaintiffs must also show that there is a substantial risk that they will suffer the potential future injury absent their requested relief.<sup>21</sup> The district court did not address the probability of Plaintiffs being injured in the future absent their requested relief.

### A

Plaintiffs contend that they have demonstrated a substantial risk that they will suffer a future injury as a result of the DPS System's noncompliance with the NVRA and Equal Protection Clause. As Plaintiffs concede, to do so, they must demonstrate "a sufficient probability that each Plaintiff will use the noncompliant driver's license services again." All three Plaintiffs declared that they "plan to continue transacting online with [DPS] in the future whenever [they are] required to renew or change the address on [their] driver's license and [are] eligible to do so." However, each Plaintiff will have the occasion to use the DPS System to update his voter registration only if (1) he moves within Texas, in which case he might wish use the DPS System to change his address on file with DPS and his county voter registrar, or (2) he becomes both unregistered to vote and eligible to renew his driver's license using the DPS System, in which case he might wish to use the DPS System to renew his driver's license and register to vote.

Plaintiffs rely on two types of evidence that they contend demonstrate a substantial risk that they will move again. The first is evidence of their prior moves—Hernandez and Woods have each moved once in the past five years, and Stringer has moved several times. However, evidence that a plaintiff has taken an action in the past does not, by itself, demonstrate a substantial risk that the plaintiff will take the action in the future; there must be some evidence

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<sup>21</sup> *Susan B. Anthony List*, 573 U.S. at 158 (quoting *Clapper*, 568 U.S. at 414 n.5).



No. 18-50428

that the plaintiff intends to take the action again.<sup>22</sup> Accordingly, evidence that Plaintiffs moved in the past does not establish a substantial risk that they will do so in the future. Notably, no Plaintiff has expressed any intention to move in the future.

The second type of evidence cited by Plaintiffs is data from the United States Census Bureau showing that Americans can expect to move 11.7 times in their lifetimes.<sup>23</sup> This general data also does not establish a substantial risk that Plaintiffs themselves will move again; Plaintiff-specific evidence is needed before Plaintiffs' claims can be properly characterized as an attempt to remedy an imminent injury to Plaintiffs instead of a generalized grievance available to all Texans.<sup>24</sup>

Plaintiffs also have not demonstrated a substantial risk that they will attempt to use the DPS System to renew their driver's licenses and simultaneously update their voter registrations. Plaintiffs contend that Texas's requirement that driver's licenses must be renewed every six years and the existence of Texas laws providing multiple avenues for the cancellation of a voter's registration create a "sufficient probability" that, at some point in the future, Plaintiffs will be both unregistered to vote and eligible to renew their driver's licenses using the DPS System. However, Plaintiffs do not point to

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<sup>22</sup> *Deutsch v. Annis Enters., Inc.*, 882 F.3d 169, 174 (5th Cir. 2018) (holding that a disabled person did not have standing to bring an action seeking injunctive relief against a defendant hair salon that he had visited once before absent evidence that he intended to return to the salon); *Machete Prods., L.L.C. v. Page*, 809 F.3d 281, 288 (5th Cir. 2015) (holding that a production company that had been denied a permit to produce the second installment in a film series did not have standing to seek an injunction because it failed to show any concrete or imminent plans to produce another film in the franchise).

<sup>23</sup> The court takes judicial notice of UNITED STATES CENSUS BUREAU, CALCULATING MIGRATION EXPECTANCY USING ACS DATA (2018), <https://www.census.gov/topics/population/migration/guidance/calculating-migration-expectancy.html>. See *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571-72 (5th Cir. 2011) ("United States census data is an appropriate and frequent subject of judicial notice.").

<sup>24</sup> See *Hollingsworth v. Perry*, 570 U.S. 693, 706 (2013) ("We have repeatedly held that such a 'generalized grievance,' no matter how sincere, is insufficient to confer standing.").



No. 18-50428

any Plaintiff-specific evidence suggesting that they will become unregistered and eligible to renew their driver's licenses using the DPS System.

In light of the absence of any Plaintiff-specific evidence, the evidence in the record does not demonstrate a substantial risk that Plaintiffs will become unregistered and eligible to renew their driver's licenses online. Plaintiffs cite Texas laws that provide for the cancellation of voter registration in four relatively uncommon situations: (1) when a voter's registration card is returned as undeliverable, the voter does not return a confirmation notice, and the voter does not vote in two consecutive general elections; (2) when a registrar finds a voter to be ineligible after an investigation; (3) when another voter from the same county successfully challenges a voter's registration; and (4) when a voter cancels his or her voter registration.<sup>25</sup> There is no evidence in the record that suggests that any Plaintiff is likely to fall within the ambit of these provisions. Furthermore, Texans are only required to renew their driver's licenses every eight years,<sup>26</sup> and every other renewal must be accomplished in person.<sup>27</sup> Chances are slim that Plaintiffs will become unregistered around the time that they need to renew their driver's licenses and are eligible to do so using the DPS System.

In sum, Plaintiffs have not established a substantial risk that they will attempt to update their voter registrations using the DPS System and be injured by their inability to do so. As a result, Plaintiffs have not established

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<sup>25</sup> TEX. ELEC. CODE ANN. §§ 16.031-16.038, 16.091-16.095 (West 2010 and West Supp. 2017).

<sup>26</sup> Act of June 10, 2019, 86th Leg., R.S., ch. 595, § 7.001, 2019 Tex. Sess. Law Serv. 1726 (West) (codified at TEX. TRANSP. CODE ANN. § 521.271(a)(1)).

<sup>27</sup> 37 TEX. ADMIN. CODE § 15.59(c) (2018) (Tex. Dep't of Pub. Safety, Alternative Methods for Driver License Transactions).



No. 18-50428

an injury in fact sufficient to confer standing to pursue the declaratory and injunctive relief that they seek.<sup>28</sup>

## B

Plaintiffs contend that two Eleventh Circuit cases support the opposite conclusion. The first, *Charles H. Wesley Education Foundation, Inc. v. Cox*,<sup>29</sup> is distinguishable. *Cox* involved a charity that collected and submitted voter registration forms in Georgia.<sup>30</sup> Georgia rejected the forms submitted by the charity on state law grounds, including a form submitted on behalf of plaintiff Crawford, a registered voter who was attempting to change her address.<sup>31</sup> At the time the suit was filed, Georgia had not accepted the forms at issue.<sup>32</sup> Accordingly, Crawford had standing to sue for an injunction requiring Georgia to accept her form because doing so would remedy her alleged injury—the violation of her right under the NVRA to have her form accepted and her address changed.<sup>33</sup> In this case, on the other hand, Plaintiffs are not seeking an injunction requiring Texas to accept any form that they have previously submitted or to take any action regarding their individual registrations.

The second case, *Arcia v. Florida Secretary of State*,<sup>34</sup> also does not help Plaintiffs. *Arcia* arose out of two Florida programs designed to remove ineligible voters from the voter rolls.<sup>35</sup> The first identified possible non-citizens using state records.<sup>36</sup> The plaintiffs were identified as non-citizen candidates

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<sup>28</sup> See *Los Angeles v. Lyons*, 461 U.S. 95, 108 (1983) (holding that Lyons did not have standing to seek injunctive relief because “it is surely no more than speculation to assert . . . that Lyons . . . will be arrested in the future and provoke the use of a chokehold by resisting arrest, attempting to escape, or threatening deadly force or serious bodily injury”).

<sup>29</sup> 408 F.3d 1349 (11th Cir. 2005).

<sup>30</sup> *Id.* at 1351.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 1352 n.3.

<sup>34</sup> 772 F.3d 1335 (11th Cir. 2014).

<sup>35</sup> *Id.* at 1339.

<sup>36</sup> *Id.*



No. 18-50428

for removal by the first program, but ultimately were not removed.<sup>37</sup> The second program identified candidates for removal using the federal “SAVE” database.<sup>38</sup> The Eleventh Circuit held that the plaintiffs had standing to “prospectively challenge” the second removal program because the evidence in the record demonstrated “a realistic probability that they would be misidentified due to unintentional mistakes.”<sup>39</sup> Whether the evidence in the *Arcia* record demonstrated a “realistic possibility” that the *Arcia* plaintiffs would suffer a threatened future injury does not have any impact on whether the facts in this record demonstrate a “substantial risk” that Plaintiffs will suffer a threatened future injury. *Cox* and *Arcia* do not support the conclusion that Plaintiffs have standing.

### C

Plaintiffs also contend that they have standing because their claims are capable of repetition, yet evading review. The capable-of-repetition-yet-evading-review doctrine is an exception to the general rule that federal courts do not have jurisdiction over moot cases.<sup>40</sup> A case becomes moot when “[t]he requisite personal interest that must exist at the commencement of the litigation”<sup>41</sup> ceases to exist because “interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.”<sup>42</sup> The capable-of-repetition-yet-evading-review doctrine applies only to claims that are moot, *i.e.* presented a case or controversy when they were filed but ceased to do so at

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<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 1341.

<sup>40</sup> *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 190 (2000).

<sup>41</sup> *Goldin v. Bartholow*, 166 F.3d 710, 717 (5th Cir. 1999) (citing *Arizonans For Official English v. Arizona*, 520 U.S. 43, 68 n. 22 (1997)).

<sup>42</sup> *Los Angeles Cty. v. Davis*, 440 U.S. 625, 631 (1979).

No. 18-50428

a later time.<sup>43</sup> “Standing admits of no similar exception; if a plaintiff lacks standing at the time the action commences, the fact that the dispute is capable of repetition yet evading review will not entitle the complainant to a federal judicial forum.”<sup>44</sup> Because Plaintiffs became registered *prior* to bringing this lawsuit, the fact that Plaintiffs were registered impacts whether they have standing to sue, not whether their claims are moot.<sup>45</sup> Accordingly, the capable-of-repetition-yet-evading-review doctrine is not implicated by Plaintiffs’ claims.<sup>46</sup>

\* \* \*

Because Plaintiffs do not have standing, we REVERSE the judgment of the district court, VACATE the district court’s injunction, and REMAND to the district court with instructions to dismiss Plaintiffs’ claims for lack of standing.

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<sup>43</sup> *Renne v. Geary*, 501 U.S. 312, 320 (1991) (“While the mootness exception for disputes capable of repetition yet evading review has been applied in the election context, that doctrine will not revive a dispute which became moot before the action commenced.” (citation omitted)).

<sup>44</sup> *Laidlaw*, 528 U.S. at 191.

<sup>45</sup> *Renne*, 501 U.S. at 320.

<sup>46</sup> *Laidlaw*, 528 U.S. at 191.



No. 18-50428

JAMES C. HO, Circuit Judge, concurring:

The Chief Justice once wrote: “[T]hose who govern should be the *last* people to help decide who *should* govern.” *McCutcheon v. FEC*, 572 U.S. 185, 192 (2014) (plurality op.). This sentiment is deeply engrained in our nation’s DNA. As Americans, we have never trusted the fox to guard the henhouse.

In *McCutcheon*, the Chief applied this skepticism in the context of campaign finance regulation. In sum, regulators say: I want to keep big money out of politics. And fair enough. Money can certainly corrupt. But money can also support speech. *See id.* at 191–92; *see also Buckley v. Valeo*, 424 U.S. 1, 288 (1976) (Marshall, J., concurring in part and dissenting in part) (“[A]ll Members of the Court agree . . . money is essential for effective communication in a political campaign.”). Bribery is prohibited. But speech is protected. And in our legal system, we presume innocence—not corruption. So when regulators regulate too far, citizens may fear that the *real* purpose is to reduce speech.<sup>1</sup>

The case before us today involves voting, not speech. But that raises the question: Should the Chief’s sentiments apply here as well? After all, citizens exercise “the right to participate in electing our political leaders . . . in a variety of ways”—they can “urge others to vote” by engaging in and funding political speech, but of course they can also “vote” themselves. *McCutcheon*, 572 U.S.

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<sup>1</sup> For example, it’s widely said that there’s “little sense” in restricting campaign contributions unless we also restrict independent expenditures—either act can corrupt, so it’s pointless to restrict one if you don’t also restrict the other. *Buckley*, 424 U.S. at 261 (White, J., concurring in part and dissenting in part). *See also id.* at 290 (Blackmun, J., concurring in part and dissenting in part) (same); *FEC v. Nat’l Conservative Political Action Comm.*, 470 U.S. 480, 518–521 (1985) (Marshall, J., dissenting) (same); *Randall v. Sorrell*, 548 U.S. 230, 276 (2006) (Stevens, J., dissenting) (same); *Zimmerman v. City of Austin*, 888 F.3d 163, 169 (5th Cir. 2018) (Ho, J., dissenting from denial of rehearing en banc) (same). Yet “[w]ell-established precedent makes clear that the expenditure limits violate the First Amendment.” *Randall*, 548 U.S. at 236 (plurality op. of Breyer, J.). So if there’s “little sense” in regulating contributions alone, citizens may worry that the *real* target is not corruption, but speech.



No. 18-50428

at 191. So wouldn't it be natural for citizens to harbor the same concerns here—that political interest will triumph over public spirit, whether intentionally or subconsciously, whenever public officials regulate *any* aspect of how we choose public officials? Whether it's regulating how citizens may vote, or how citizens may urge others to vote, shouldn't citizens insist that we need not simply trust—we must also verify?

One potential difference is that, when it comes to administering elections, *someone* obviously has to set ground rules to ensure the security and integrity of the ballot box. See *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 191 (2008) (recognizing “the State’s interest in protecting the integrity and reliability of the electoral process”). The Constitution expressly authorizes states to regulate elections. See U.S. Const. art. I, § 4 (“The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.”). And so “[c]ommon sense, as well as constitutional law, compels the conclusion that government must play an active role in structuring elections; as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.” *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (quotations omitted).

But surely that does not mean citizens must ignore entirely the Chief Justice’s admonitions, and blindly trust that regulators never miss their marks. At a minimum, citizens can verify that regulations are lawful and do not infringe on the right to vote.

In this case, Plaintiffs allege that the State of Texas violates voting rights in various ways. For example, the National Voter Registration Act of 1993 (also known as the Motor Voter Act) requires, *inter alia*, that “[a]ny



No. 18-50428

change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration." 52 U.S.C. § 20504(d).

On the plain text of the statute, the rule seems simple enough: If it's good enough for motorist licensing, then it ought to be good enough for voter registration. If the system is secure enough to ensure the integrity of the former, then it ought to be secure enough to ensure the integrity of the latter.

Plaintiffs contend that the State of Texas violates this rule. For example, Jarrod Stringer and Benjamin Hernandez alleged, and a respected district judge found, that they each submitted an address change for their driver's licenses—but were nevertheless unable to vote in their new locations during the 2014 federal election cycle.

The State responds, *inter alia*, that Congress enacted the National Voter Registration Act in 1993—well before the age of the Internet, the advent of online transactions and electronic signatures, and the bevy of security questions that cyber-activities inevitably present.

I agree with my colleagues that we are not at liberty to decide the merits in this case, because none of these Plaintiffs have standing to seek injunctive relief here. They all secured their right to vote by the 2016 election cycle. And they claim no future injury that we can redress today. I therefore join Judge Owen's opinion in full, reversing the judgment of the district court due to Plaintiffs' lack of standing.

But although we have no occasion to decide the merits of Plaintiffs' claims due to their lack of a future injury, that does not prevent us from acknowledging that Plaintiffs have indeed endured an injury in the past. They were unable to exercise their right to vote in past election cycles. And it is a right they will *never* be able to recover. As citizens, we can hope it is a

No. 18-50428

deprivation they will not experience again—even if the law does not afford them a remedy from this court at this time.

I concur.

# Exhibit D



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CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_ DEPUTY

## FINAL JUDGMENT

On May 10, 2018, the Court granted Plaintiffs' motion for summary judgment. *See* docket no. 105. In its order, the Court requested that the parties confer and submit a proposed form of judgment setting forth the necessary and appropriate declaratory and injunctive relief for the Court's consideration. Plaintiffs submitted a proposed judgment. Defendants submitted broad objections to the Court's prior rulings and Plaintiffs' proposed judgment but did not submit an alternative to Plaintiffs' proposed form of judgment. After reviewing same, and consistent with the Court's summary judgment findings, which are incorporated herein, the Court:

1. DECLARES, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA, 52 U.S.C. §§ 20503(a)(1), 20504(a), (c), (d), and (e), and 20507(a)(1)(A), and the Equal Protection Clause, U.S. Const. amend. XIV, § 1, by failing to permit simultaneous voter registration with online driver's license renewal and change-of-address transactions;

2. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from continuing to violate the NVRA and Equal Protection Clause by:

- (a) failing to establish procedures to register to vote in elections for Federal office for driver's license customers who renew or change their address online;
- (b) refusing to treat each online driver's license renewal or change-of-address application as a simultaneous application for voter registration with respect to elections for Federal office;
- (c) refusing to include a voter registration application form for elections for Federal office as part of each online driver's license renewal or change-of-address application;
- (d) requiring online driver's license renewal and change-of-address customers who wish to register to vote or update their voter registration to complete an entirely separate, duplicative voter registration application with the Secretary of State's office;
- (e) refusing to make the voter registration portion of each online driver's license renewal or change-of-address application available to the Secretary of State's office;
- (f) refusing to treat the customer's online driver's license change-of-address application as a notification of change of address for voter registration with respect to elections for Federal office, unless the customer indicates that the change of address is not for voter registration purposes;
- (g) refusing to transmit voter registration information submitted in connection with online driver's license renewal and change-of-address transactions to the appropriate State election official within the statutorily required timeframe, 52 U.S.C. § 20504(e);



- (h) refusing, in the case of registration with an online driver's license renewal or change-of-address application, to ensure that any eligible online driver's license customer is registered to vote in an election, if the valid voter registration form of the customer is submitted to the Department of Public Safety (DPS) not later than the lesser of 30 days, or the period provided by state law, before the date of the election;
- (i) refusing to accept and use online driver's license customers' previously-captured electronic signatures for voter registration purposes; and
- (j) failing to record and use an online driver's license renewal or change-of-address customer's response to the voter registration portion of the application.

3. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from implementing practices and procedures that violate §§ 20503, 20504, and/or 20507 of the NVRA;

4. DIRECTS Defendant DPS, no later than 45 days<sup>1</sup> from the date of this Judgment, to:

- (a) permit simultaneous voter registration with online driver's license renewal and change-of-address transactions so that in order to register to vote or update voter registration information, the online driver's license renewal or change-of-address customer only needs to respond to the following (or substantially similar) questions:

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<sup>1</sup>This timeline for compliance is justified because: there is a federal election in November 2018; the NVRA mandates have been in existence for 25 years; the violations in issue have persisted for several years; Defendants were served with statutory notice of the instant violations more than two years ago; and the record reflects that implementation of corrective measures is not only technologically feasible but Defendants are currently capable of instituting such measures. (*See* docket no. 105). Defendants seek 90 days for corrective measures, and do not want to begin implementation until September 1, 2018. Thus, despite admitting that they are currently capable of making changes, they are seeking six months to make the changes. This timeframe for compliance does not take the upcoming election deadlines into consideration. Moreover, Defendants fail to explain why their current vendor (who is presumably more familiar with Texas.gov) cannot achieve compliance prior to September 1, while their new vendor (who is presumably less familiar with Texas.gov) could achieve compliance within 90 days after September 1.



**1. Would you like to register to vote?** No additional information is required.

- **Yes, Register Me to Vote**
- **No, Do Not Register Me to Vote**

**2. If you are already registered, this application will be used to update your voter registration address, unless you opt out. Would you like to opt out of updating your address for voter registration purposes?**

- **Update My Voter Registration**
- **Opt Out: DO NOT Update My Voter Registration**  
(Your new address will not be submitted to the Texas Secretary of State's office for voter registration purposes).

(hereinafter "the voter registration questions");

- (b) register to vote or update voter registration information for online driver's license customers who select "Yes" in response to the question, "Would you like to register to vote?"
- (c) register to vote or update voter registration information for online driver's license customers who select "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"
- (d) register to vote or update voter registration information for online driver's license customers who select both "No" in response to the question, "Would you like to register to vote?" and "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"
- (e) track, record, and retain each online driver's license renewal or change-of-address customer's response to the voter registration questions; and
- (f) transmit the voter registration information for each online driver's license renewal or change-of-address customer to the Secretary of State's office, including the

customer's response to the voter registration questions and the customer's electronic signature file collected during the customer's last in-person transaction;

5. DIRECTS Defendant the Secretary of State, upon receipt from DPS of each online driver's license renewal or change-of-address customer's voter registration information and signature file, to transmit this data in the normal course of business to local voter registrars who are responsible for completing the voter registration process, in a manner substantially similar to the process for transmitting voter registration information after an in-person transaction; and ensure that local voter registrars register to vote or update the voter registration information of these customers;

6. DIRECTS Defendants, within 14 days from the date of this Judgment, to submit to Plaintiffs' counsel a proposed public education plan that details the use of at least three media venues, including but not limited to television, radio, internet social media, Texas.gov, and/or the Secretary of State's website <https://www.sos.state.tx.us>, to inform and educate the public on how this Judgment changes the voter registration process for online driver's license renewal and change-of-address applications; include in this public education plan steps to incorporate for two years the promotion of voter registration through online driver's license renewal and change-of-address applications into the Texas.gov marketing program, the Texas.gov/driver marketing campaign, and all DPS, Secretary of State, and their vendors' marketing campaigns related to online driver's license renewal and change-of-address applications; and, once the public education plan is agreed to by all parties, implement such plan no later than 45 days from the date of this Judgment.<sup>2</sup>

<sup>2</sup> Should the Parties be incapable of agreeing on an appropriate public education plan, the Parties will submit their proposals to the Court no later than 25 days from the date of this Judgment, and the Court will order the implementation of a plan that takes reasonable steps to inform the public about this Judgment as described in Paragraph 6.



7. DIRECTS Defendants to:

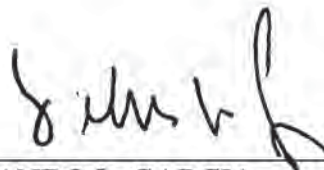
- (a) submit to this Court notice of compliance with this Judgment no later than 45 days from the date of this Judgment, with affidavits from the Director of DPS and the Secretary of State attached confirming compliance with this Judgment;
- (b) submit to Plaintiffs' counsel on or before January 15th of every year for the next three years through January 15, 2021, a report that includes, for the previous calendar year:
  - (i) a general summary of compliance efforts detailing all steps taken to implement each of the provisions and requirements of this Judgment, including any significant implementation problems, staff training needs, and recommendations for improvement;
  - (ii) the number of online driver's license renewal and change-of-address applications and the number of voter registrations arising from these applications;
  - (iii) copies of all NVRA procedures and educational and training materials related to online driver's license renewal or change-of-address transactions both used in the preceding year and expected to be used in the future;
  - (iv) any investigations or corrective actions at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications;
  - (v) any implemented or revised policies or procedures at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications; and

- (vi) all customer complaints related to voter registration through an online driver's license renewal or change-of-address application, and all subsequent correspondence and action taken related to each customer complaint; and
- (c) conduct monthly quality control tests until May 2019 to ensure that the online driver's license renewal and change-of-address process complies with this Judgment, and report to Plaintiffs' counsel every three months the results of completed quality control tests;

8. RETAINS jurisdiction over this action until two years after the date of this Judgment to ensure that Defendants continue to comply with their obligations under the NVRA, the Equal Protection Clause, and this Judgment, and, if Defendants fail to comply with this Judgment at any time after the two-year deadline, permits Plaintiffs to initiate an enforcement action against Defendants in this Court;

9. ORDERS that Defendants shall pay to Plaintiffs their reasonable attorney's fees, including litigation expenses, and costs as will be determined by the Court in a post-judgment Order upon submission by the Plaintiffs.

SIGNED this 18<sup>th</sup> day of May, 2018.



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ORLANDO L. GARCIA  
CHIEF U.S. DISTRICT JUDGE



# Exhibit E

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JARROD STRINGER, *et. al*,

Plaintiffs,

V.

CARLOS H. CASCOS, IN HIS OFFICIAL  
CAPACITY AS THE TEXAS SECRETARY OF  
STATE and STEVEN C. McCRAW, IN HIS  
OFFICIAL CAPACITY AS THE DIRECTOR OF  
THE TEXAS DEPARTMENT OF PUBLIC  
SAFETY

Defendants.



Civil Action No. \_\_\_\_\_

**PLAINTIFFS' ORIGINAL COMPLAINT**

## NATURE OF THE ACTION

1. This action seeks declaratory and injunctive relief to redress Defendants’ systemic and ongoing violations of the “Motor Voter” provisions of the National Voter Registration Act of 1993 (“NVRA”), enacted as Public Law 103-31 and codified at 52 U.S.C. §§ 20501-20511. Defendants’ conduct also violates the U.S. Constitution’s guarantee of equal protection, preserved by Section 1 of the Fourteenth Amendment. As a result, Plaintiffs, who are eligible Texas voters, have been disenfranchised — just like the thousands of similarly situated voters who complained to election officials about these same problems when their ballots were not counted. Texas voters will continue to be shut out of the democratic process unless and until Defendants reform their registration practices.

2. After finding that “discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation,” and that state governments have a “duty” to promote voting and voter registration, Congress enacted the NVRA to “establish

procedures that will increase the number of eligible citizens who register to vote in elections for Federal office.” 52 U.S.C. § 20501. Through its Motor Voter provisions, the NVRA imposes voter registration obligations upon state motor vehicle bureaus. Specifically, every time an eligible voter obtains, renews, or updates his or her driver’s license with the Texas Department of Public Safety (“DPS”), the State must simultaneously offer to register that person to vote or to update the voter’s registration record.

3. The Motor Voter provisions require DPS to simultaneously treat: (a) “each . . . driver’s license application (including any renewal application)” as an “application for voter registration,” 52 U.S.C. § 20504(a)(1); and (d) “any change of address form” as a “notification of change of address for voter registration,” 52 U.S.C. § 20504. Defendants have a legal duty to ensure that every eligible voter who submits a driver’s license application or renewal, or updates his or her address with DPS, is duly registered to vote. 52 U.S.C. § 20507(a)(1)(A).

4. The Motor Voter provisions apply to “each” renewal application and “any” change-of-address form submitted to DPS, unless the voter “fails to sign the voter registration application” or “states on the form that the change of address is not for voter registration purposes.” 52 U.S.C. § 20504. Accordingly, outside of those two narrow exceptions, **all** driver’s license transactions are covered by the Motor Voter law, regardless of the method by which a voter applies, renews or updates his or her driver’s license — the NVRA does not discriminate against voters who choose one transaction method over another. Online renewals and change-of-address transactions are thus expressly covered by the NVRA’s plain text.

5. The State of Texas permits certain Texas driver’s license holders to renew their license and/or update the address on their license online on DPS’ website at [www.txdps.state.tx.us](http://www.txdps.state.tx.us). *See* Ex. A, at 1. During the online process, these individuals are asked to

check “yes” or “no” in response to the statement, “I want to register to vote.” *See* Ex. A, at 2; Ex. C, at 19. It is undisputed that, even after an eligible voter checks “yes,” Defendants fail to offer any means for simultaneous voter registration and fail to update the registration records of voters who change their address.

6. Even though the State does not use information from online change-of-address transactions to properly register a voter at his or her new address, these transmissions may be used to *cancel* a voter’s prior registration record. *See* Tex. Elec. Code § 16.031.

7. In addition to violating the NVRA, Defendants’ current practices treat similarly situated voters differently based solely on how those voters choose to transact with DPS. The NVRA, which makes no distinction between transaction methods, cannot be used to justify this arbitrary discrimination.

8. As a result of Defendants’ failure to comply with the NVRA, each Plaintiff in this action was not able to cast a regular ballot in a recent election. Each Plaintiff was thus denied the right to voter registration that is guaranteed by the NVRA and denied an equal opportunity to participate in a federal election — for no reason other than the method through which they transacted with DPS.

9. Between September 2013 and May 26, 2015, the State recorded complaints from more than 1,800 voters who completed an online transaction with DPS and mistakenly believed that their registration records were updated too. *See* Ex. B. These voters certainly represent a mere fraction of the total number of Texas voters injured by Defendants’ conduct.

10. Defendants must not be permitted to ignore constitutional and federal law. We respectfully request that this Court enjoin Defendants from further violations of applicable law and grant Plaintiffs the relief set forth below.

## **JURISDICTION AND VENUE**

11. This case arises under the U.S. Constitution and the NVRA, a law of the United States. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(4).

12. Defendants have received detailed notice of these violations of federal law and have failed to correct the violations alleged herein within 90 days. Plaintiffs therefore have a private right of action under 52 U.S.C. § 20510(b) to enforce the NVRA. Exhibit C contains the original notice provided to Defendants on May 27, 2015 and all correspondence between the parties thereafter.

13. This Court has jurisdiction to grant both declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

14. This Court has personal jurisdiction over Defendants because each is a citizen of the State of Texas.

15. Venue is proper because a substantial part of the events or omissions giving rise to the claim occurred in this district, and each Defendant conducts business in this district. 28 U.S.C. § 1391(b).

## **PARTIES**

### ***Plaintiffs***

16. Plaintiffs — Benjamin Hernandez, Jarrod Stringer, Totysa Watkins, and John Woods — are eligible Texas voters who were directly and individually harmed by Defendants' conduct.



### *Defendants*

17. Defendants are the state officials charged with ensuring Texas’ compliance with Sections 4 and 5 of the NVRA.

18. Defendant Carlos H. Cascos (“Mr. Cascos”) is the Texas Secretary of State, and is sued in his official capacity. As Secretary of State, Mr. Cascos serves as Texas’ Chief Election Officer. Tex. Elec. Code § 31.001(a). Each state’s chief election official is responsible for coordinating that state’s compliance with the NVRA. 52 U.S.C. § 20509.

19. Defendant Steven C. McCraw is the Director of DPS, and is sued in his official capacity. DPS is Texas’ motor vehicle bureau. DPS operates offices around the state, issues driver’s licenses and other state identification cards, and is responsible under state and federal law for providing voter registration services and transmitting voter registration information to the Texas Secretary of State. *See* 52 U.S.C. §§ 20503-20504; Tex. Elec. Code §§ 20.063, 20.066.

### **APPLICABLE LAW**

#### *The Fourteenth Amendment*

20. The Fourteenth Amendment’s Equal Protection Clause is implicated any time a state subjects voters to disparate treatment or places arbitrary restrictions upon the right to vote. U.S. Const. amend. XIV, § 1.

21. There is no “litmus test for measuring the severity of a burden that a state law imposes on . . . an individual voter, or a discrete class of voters. However slight that burden may appear, . . . it must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford v. Marion County Election Board*, 553 U.S. 181, 191 (2008) (Stevens, J., announcing judgment of Court); *accord Obama for America v. Husted*, 697 F.3d 423, 429 (6th Cir. 2012) (“When a plaintiff alleges that a state has burdened voting rights

through the disparate treatment of voters, we review the claim using the flexible standard outlined in *Anderson v. Celebrezze* . . . courts must weigh the burden on voters against the state’s asserted justifications and make the hard judgment that our adversary system demands.” (internal quotation marks and citations omitted)).

***National Voter Registration Act of 1993***

22. A “principal purpose” of the NVRA is to “increase the number of eligible citizens who register to vote.” 52 U.S.C. § 20501(b)(1); *Ferrand v. Schedler*, No. 11-926, 2012 WL 1570094 at \*10 (E.D. La. May 3, 2012) (citing H.R. Rep. No. 103–66, at 19 (1993) (Conf. Rep.), *reprinted in* 1993 U.S.C.C.A.N. 140, 144); *Ass’n of Cmty. Organizations for Reform Now v. Fowler*, 178 F.3d 350, 354 (5th Cir. 1999). A Senate Report on the law “makes clear that, in implementing the NVRA, the ‘[g]overnment should do all it can to make registration widely and easily available.’” *Ferrand v. Schedler*, No. 11-926, 2012 WL 1570094 at \*11 (E.D. La. May 3, 2012) (citing S. Rep. No. 103–6, at 14 (1993)).

23. The NVRA’s “Motor Voter” provisions were meant to streamline the federal voter registration process and increase voter registration accessibility:

[I]ncorporating voter registration into the drivers licensing process provides a secure and convenient method for registering voters; an effective means of reaching groups of individuals generally considered hard-to-reach for voting purposes . . .; and a procedure for keeping rolls current through contact with licensees who change addresses.

S. Rep. 103-6, at 5 (1993).

24. Indeed, under the Motor Voter provisions, every time an eligible Texas voter obtains, renews, or updates his or her driver’s license with DPS, the State must simultaneously register that person to vote or update that voter’s registration records, unless the person fails to

sign the registration form or attests that the change-of-address information is not for voter registration purposes. 52 U.S.C. §§ 20503, 20504; 20507.

25. In relevant part, 52 U.S.C § 20504 provides that:

Each State motor vehicle driver’s license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office unless the applicant fails to sign the voter registration application . . . any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

26. The State may not “require any information that duplicates information required in the driver’s license portion of the form,” other than extra information expressly enumerated by statute. *Id.* at § 20504(c)(2)(A). Instead, the NVRA demands that eligible voters shall be registered to vote “simultaneously” with the submission of any driver’s license application, renewal or change-of-address form. *See id.* at § 20503(a)(1)(1).

27. DPS must promptly transmit completed voter registration applications and change-of-address information to election officials; generally, transmission must occur no later than 10 days after receipt. *See id.* at § 20504(e).

### ***Texas Election Code***

28. Shortly after the NVRA was enacted in 1993, the State of Texas updated the Texas Election Code to reinforce the NVRA’s Motor Voter mandates. *See generally* Tex. Elec. Code §§ 20.061-66.

29. For instance, state law specifies that DPS must use “a form and procedure that combines the department’s application form for a license or card with an officially prescribed voter registration application form.” *Id.* at § 20.062(a).

30. DPS must also provide a “change of address form and procedure that combines department and voter registration functions,” so that when a voter submits a change of address, that “serves as a change of address for voter registration” as well, unless the individual indicates otherwise. *Id.* at § 20.063(c); *id.* at § 20.062(a).

31. In addition, if a “correct driver’s license number or personal identification card number” or if “correct residence address or mailing address” information is missing from a registration application, DPS employees have a duty to correct the voter’s application by “enter[ing] the information on the application.” *Id.* at § 20.063(d).

32. Finally, voter registration applications and change-of-address forms must be promptly delivered to election officials. Specifically, “[n]ot later than the fifth day after the date a person completes a voter registration application and provides an electronic signature to the department, [DPS] shall electronically transfer the applicant’s voter registration data, including the applicant’s signature, to the [Texas Secretary of State].” *Id.* at § 20.066; *see also id.* at § 20.065.

### FACTUAL ALLEGATIONS

33. Exhibit C contains the original notice provided to Defendants on May 27, 2015 and all correspondence between the parties thereafter. The factual allegations set forth in those letters are incorporated by reference in this Complaint.

#### ***DPS Does Not Provide Simultaneous Voter Registration with Online Transactions***

34. DPS encourages Texans to use a number of online services through its website, [www.txdps.state.tx.us](http://www.txdps.state.tx.us), an official governmental website for the State of Texas.

35. DPS invites many Texas driver’s license holders to renew their license and/or update the address information associated with their license online through a portion of its

website entitled “Driver License Renewal and Change of Address,” available at <https://txapps.texas.gov/tolapp/txdl/>.

36. Defendants’ Driver License Renewal and Change of Address website page provides a single online portal for qualified holders of a Texas driver’s license to renew their driver’s licenses, update the address listed on their driver’s licenses, or both.

37. The online process involves eight “Steps to Complete,” including the following steps: Welcome, Login, Select Services, Enter Address, Select Options, Review Order, Submit Payment, and Receipt. *See* Ex. A, at 1; Ex. C, at 19.

38. When users reach Step 5 of this online process, Defendants prompt the users to answer whether they want to register to vote. *See* Ex. A, at 2; Ex. C, at 19. If, however, an eligible voter checks “yes” under the statement “I want to register to vote,” Defendants do not register that voter to vote and do not update that voter’s registration records.

39. Unlike Defendants’ simultaneous voter registration services for license renewal or address update applications submitted in-person at a DPS office, Defendants do not provide for simultaneous voter registration as required by the NVRA at any point during the online license renewal or address update process. Rather than providing any simultaneous opportunity for voter registration, the DPS website directs voters to an entirely different website, where voters must “download[] or request[]” a physical voter registration form.<sup>1</sup>

40. Specifically, Step 5 includes the following statement:

Selecting “Yes” does not register you to vote. A link to the Secretary of State Voter website (where a voter application may be downloaded or requested) will be available on your receipt page.

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<sup>1</sup> “Simultaneous” means “existing or occurring at the same time; exactly coincident.” *Definition of Simultaneous by Merriam-Webster*, Merriam-Webster, <http://www.merriam-webster.com/dictionary/simultaneous> (last visited March 8, 2016).



41. Then, in order to register to vote, or to update address information, following an online transaction, an eligible voter must complete a number of additional steps. He or she must complete a separate voter registration form, print it out (if using a PDF version), and mail the form to the appropriate county registrar (after looking up that address) before the voter registration deadline.

42. Defendant Secretary of State's publication, *32nd Annual Election Law Seminar Handbook*<sup>2</sup> confirms that "[i]f the [DPS] transaction was made online, then the person is not registered to vote." According to this handbook, "[b]y selecting 'yes' when updating information through DPS online renewal [the voter] is merely requesting a link to a voter registration application on the individual's receipt page."

43. This process stands in stark contrast to DPS' procedures for registering eligible Texas residents who renew a driver's license and/or update address information in person at a DPS office. As DPS recently confirmed, for in-person customers who wish to register to vote, DPS "electronically transfer[s] to the Secretary of State (SOS) the name and relevant data regarding each applicant who is of voting age and a United States citizen who affirmatively answered the voter registration question" at the end of each business day. Ex. C, at 134. However, when the exact same information is submitted online by an eligible voter who is identically situated but chose to use DPS' online system rather than visit the office in person, that voter's "name and relevant data" is never transferred to election officials.

44. Even though Defendants refuse to use information from online change-of-address transactions to properly register voters at their new addresses, they are certainly capable of using this information to do so. In fact, Defendants may use the same online information to *cancel* a

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<sup>2</sup> On file with Counsel for Plaintiffs.

voter's prior registration record even though they fail to give voters any notice of this possibility. *See* Tex. Elec. Code § 16.031.

45. Defendants further confuse voters like Plaintiffs with the portion of DPS' webpage that provides answers to frequent inquiries about the online renewal and change-of-address processes. Defendants fail to indicate here that voter registration files are not simultaneously updated. *See* Ex. E. DPS also fails to explain on its website that completing DPS' online change-of-address form may jeopardize a voter's registration status at his or her former residence. *Id.*

***Defendants' Conduct Injures Each Plaintiff***

46. **Benjamin Hernandez:** Mr. Hernandez moved to Dallas County from Ector County in February 2013. That month, he updated his driver's license address online, and believed that his voter registration records were updated as well. On Election Day 2014, Mr. Hernandez attempted to vote in Dallas County, but was told that his name was not on the rolls in Dallas County. Mr. Hernandez cast a provisional ballot, but later received notice that his vote was not counted.

47. **Jarrold Stringer:** Mr. Stringer moved from Tarrant County to Bexar County on August 1, 2014. Within the same week, Mr. Stringer updated his driver's license address online, and believed that his voter registration records were updated as well. Mr. Stringer attempted to vote early in the 2014 general election, but was told that his name was not on the rolls in Bexar County. Mr. Stringer then called Bexar County election officials, and was told that he was not registered in Bexar and could only vote a limited ballot with state-wide candidates, because he was still registered at his former address. When Mr. Stringer explained that he had changed his

address through DPS' website, the election officials with whom he spoke told Mr. Stringer that the county was aware of "problems at DPS."

48. **Totysa Watkins:** Ms. Watkins moved from Denton County to Dallas County in 2011. After moving, she changed her driver's license address online, and believed that her voter registration records were updated as well. In September 2013, Ms. Watkins moved within Irving, which is in Dallas County, and once again changed her driver's license address and attempted to update her voter registration online through DPS' website. Ms. Watkins attempted to vote on Election Day 2014, but was told by an election worker that she was not registered in Dallas County. She cast a provisional ballot. A few weeks later, Ms. Watkins received a notice indicating that her vote was not counted and then received two new voter registration cards.

49. **John Woods:** Dr. Woods moved from Travis County to Harris County in June 2015. In September 2015, Dr. Woods changed his driver's license address online, and believed that his voter registration records were updated as well. Shortly thereafter, Dr. Woods went to a local library, where he was offered an opportunity to register to vote. He declined that opportunity, however, because he believed that his voter registration records had already been updated. Dr. Woods called Harris County on Election Day 2015, trying to identify his polling location. Dr. Woods was informed that he was not registered in Harris County, but was still registered in Travis County, and that any provisional ballot cast in Harris County would likely not be counted. Nonetheless, Dr. Woods went to his local polling location and cast a provisional ballot.

50. Each Plaintiff believed that he or she was properly registered because he or she completed an online transaction with DPS, attempted to update his or her registration records, and later received an updated driver's license in the mail.

51. Plaintiffs only learned of DPS' registration failures when they arrived at the polls and were denied a regular ballot.

52. No Plaintiff was informed that completing DPS' online change-of-address form could jeopardize his or her registration status at his or her former residence pursuant to current law.

53. The conduct that harmed Plaintiffs is ongoing. Moreover, Defendants have repeatedly maintained that they are unwilling to change the policies and practices that caused the injuries described herein. *See* Ex. C.

***Defendants' Voter Registration Failures Harm Countless Texas Voters***

54. As a result of Defendants' failure to comply with the NVRA, countless eligible Texas residents have been denied the right to voter registration, which is guaranteed by the NVRA.

55. Indeed, according to its own data, between September 2013 and May 26, 2015, the State recorded complaints from more than 1,800 voters who completed an online transaction with DPS and mistakenly believed that their registration records were updated as well.

56. For all of the reasons laid out in Plaintiffs' May 27, 2015 notice letter, Exhibit C, at 2-21, the voters who complained almost certainly represent just a fraction of the total affected during that time frame. Indeed, the State's records capture only those voters who contacted election workers, specifically complained about registration problems at DPS, and had their files investigated — surely, not all affected voters complained; others may have reported problems but had their complaints disregarded by election workers. Further, the data provided by the State comes from just 123 of Texas' 254 counties, strongly suggesting that the data set itself is incomplete. *See* Ex. B; Ex. C, at 9.

57. Notably, numerous emails, obtained through public records requests, establish that DPS officials and high-ranking employees in the Secretary of State's office have had actual knowledge of the significant and widespread confusion caused by the State's treatment of online DPS transactions since at least 2012. *See* Ex. C, at 15; Ex. D. But, to date, Defendants have taken no significant steps to remedy these problems.

## **CLAIMS FOR RELIEF**

### ***Count I***

#### ***Subjecting Plaintiffs to Arbitrary Treatment in Violation of the Right to Equal Protection***

58. Plaintiffs incorporate by reference the allegations contained in Paragraphs 33 through 57 as if fully set forth herein.

59. By arbitrarily subjecting Plaintiffs to disparate voter registration standards, Defendants have denied Plaintiffs an equal opportunity to participate in federal and state elections in violation of Section 1 of the Fourteenth Amendment. As a result of this disparate treatment, Plaintiffs were denied their right to vote.

### ***Count II***

#### ***Failure to Treat Driver's License Renewal Transactions as Voter Registration Applications***

60. Plaintiffs incorporate by reference the allegations contained in Paragraphs 33 through 57 as if fully set forth herein.

61. Plaintiffs have a private right of action pursuant to 52 U.S.C. § 20510(b). Plaintiffs must "provide written notice of... violation[s] to the chief election official of the State involved." 52 U.S.C. § 20510(b)(1). Defendants received notice of these violations and failed to correct them within 90 days of receiving that notice. 52 U.S.C. § 20510; *see* Ex. C. Therefore, Plaintiffs may bring this suit.



62. Defendants have violated and continue to violate 52 U.S.C. § 20503(a)(1) by failing to establish procedures “to register to vote in elections for Federal office . . . by application made simultaneously with an application for a motor vehicle driver’s license pursuant to section 20504.”

63. Defendants have violated and continue to violate 52 U.S.C. § 20504(a)(1) by failing to operate a system in which online applications to renew a Texas driver’s license also serve as simultaneous applications for voter registration.

64. Defendants have violated and continue to violate 52 U.S.C. § 20504(a)(2) by failing to treat online driver’s license renewal applications “as updating any previous voter registration by the applicant.”

65. Defendants have violated and continue to violate 52 U.S.C. § 20504(c) by requiring eligible voters who use the DPS website to renew a driver’s license and who wish to register to vote to separately submit “information that duplicates information required in the driver’s license portion of the form.”

66. Defendants have violated and continue to violate 52 U.S.C. § 20504(e) by failing to transmit voter registration information submitted online to “the appropriate State election official” within the statutory period.

67. Defendants have violated and continue to violate 52 U.S.C. § 20507(a)(1)(A) by failing to “ensure that any eligible applicant is registered to vote” if the “valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election.”

***Count III***  
***Failure to Treat Driver's License Change-of-Address Transactions***  
***as Updates for Voter Registration Purposes***

68. Plaintiffs incorporate by reference the allegations contained in Paragraphs 33 through 57 as if fully set forth herein.

69. Plaintiffs have a private right of action pursuant to 52 U.S.C. § 20510(b). Plaintiffs must “provide written notice of... violation[s] to the chief election official of the State involved.” 52 U.S.C. § 20510(b)(1). Defendants received notice of these violations and failed to correct them within 90 days of receiving that notice. 52 U.S.C. § 20510; *see* Ex. C. Therefore, Plaintiffs may bring this suit.

70. Defendants have violated and continue to violate 52 U.S.C. § 20503(a)(1) by failing to establish procedures “to register to vote in elections for Federal office . . . by application made simultaneously with an application for a motor vehicle driver’s license pursuant to section 20504.”

71. Defendants have violated and continue to violate 52 U.S.C. § 20504(c) by requiring eligible voters who use the DPS website to update a driver’s license and who wish to register to vote to separately submit “information that duplicates information required in the driver’s license portion of the form.”

72. Defendants have violated and continue to violate 52 U.S.C. § 20504(d) by failing to operate a system in which “[a]ny change of address form submitted in accordance with State law for purposes of a State motor vehicle driver’s license” serves “as notification of change of address for voter registration.”

73. Defendants have violated and continue to violate 52 U.S.C. § 20504(e) by failing to transmit voter registration information submitted online to “the appropriate State election official” within the statutory period.

74. Defendants have violated and continue to violate 52 U.S.C. § 20507(a)(1)(A) by failing to “ensure that any eligible applicant is registered to vote” if the “valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election.”

### **REQUEST FOR RELIEF**

Plaintiffs respectfully request for the Court to enter an order:

- i. Declaring, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA by failing to provide for simultaneous voter registration with online driver’s license renewal;
- ii. Declaring, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA by failing to provide for simultaneous voter registration with online change-of-address forms;
- iii. Permanently enjoining Defendants, their agents and successors in office, and all persons working in concert with them, from implementing practices and procedures that likewise violate the NVRA;
- iv. Directing Defendants, under a court-approved plan with appropriate reporting and monitoring requirements, to take all appropriate measures necessary to remedy the harm caused by their noncompliance, including, but not limited to providing for the electronic transfer of voter registration information collected through online transactions to the Secretary of State,

similar to the existing system to transfer voter registration information collected through in-person transactions;

v. Awarding Plaintiffs reasonable attorney fees, including litigation expenses, and costs, pursuant to 52 U.S.C. § 20510(c);

vi. Retaining jurisdiction over this action to ensure that Defendants continue to comply with their obligations under the NVRA; and

vii. Awarding such other equitable and further relief as the Court deems just and proper.

Dated: March 14, 2016

Respectfully submitted,

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# Exhibit F

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,

Plaintiffs

V.

ROLANDO PABLOS, in his official capacity as the Texas Secretary of State, and STEVEN C. McCRAW, in his official capacity as the Director of the Texas Department of Public Safety,

### *Defendants*

§ § § § § § § § § §

C.A. 5:16-cv-00257-OLG

## **PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

**THE TEXAS CIVIL RIGHTS PROJECT**

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## TABLE OF CONTENTS

TABLE OF AUTHORITIES .....	iii
PRELIMINARY STATEMENT .....	1
BACKGROUND .....	4
UNDISPUTED FACTS .....	4
A. DPS seamlessly integrates voter registration into its mail-in change-of-address and in-person driver’s license applications.....	5
B. Defendants do not provide simultaneous voter registration applications with online transactions, but instead require additional steps and duplicative information before a customer can register or update their voter registration information.....	7
C. Plaintiffs moved from one Texas county to another, transacted with DPS online to update their driver’s license information, and checked “yes” to the voter registration question, yet Defendants failed to update their voter registration information and Plaintiffs were denied the chance to cast a regular ballot in an election.....	10
1. <i>Benjamin Hernandez</i> .....	10
2. <i>Jarrold Stringer</i> .....	11
3. <i>John Woods</i> .....	11
D. DPS is technologically capable of providing voter-registration information from online transactions to SOS and doing so would not be cost prohibitive.....	12
LEGAL STANDARD.....	13
ARGUMENT.....	13
A. Texas’ failure to treat online DPS transactions as voter registration applications violates the NVRA.....	14
1. <i>The plain language of the NVRA controls</i> .....	14
2. <i>Defendants fail to treat online driver’s license renewal applications as “simultaneous” voter registration applications in violation of 52 U.S.C. §§ 20503(a)(1), 20504(a)(1), and 20504(a)(2).</i> .....	15
3. <i>Defendants fail to treat online driver’s license change-of-address applications as notifications for voter registration in violation of 52 U.S.C. § 20504(d).</i> .....	17
4. <i>Defendants’ requirement that applicants submit a separate voter registration application upon completion of online transactions violates the NVRA’s prohibition against requiring duplicative information, 52 U.S.C. § 20504(c)(2).</i> .....	17
5. <i>Defendants’ failure to transmit voter registration information submitted during online driver’s license transactions violates 52 U.S.C. § 20504(e).</i> .....	18

6.	<i>SOS's failure to ensure that eligible applicants are registered to vote upon completion of the voter registration portion of online driver's license change-of-address and renewal applications violates 52 U.S.C. § 20507(a)(1)(A).</i>	18
B.	Texas' failure to treat online DPS transactions as voter registration applications violates the Equal Protection Clause.	19
1.	<i>The Equal Protection Clause protects against restrictions that place unreasonable burdens on the right to vote.</i>	19
2.	<i>Defendants' refusal to treat online driver's license transactions as voter registration applications unduly burdens Plaintiffs' right to vote.</i>	20
3.	<i>Defendants' asserted interest in requiring handwritten signatures is insufficient to justify the burdens created by their treatment of online DPS transactions.</i>	21
4.	<i>DPS's signature requirement as to online transactions is unreasonable.</i>	22
C.	Defendants' Affirmative Defenses are Not Supported by Evidence.	23
D.	Defendants should be required to correct their violations of the NVRA within three months of the Court's ruling.	24
CONCLUSION		25

## TABLE OF AUTHORITIES

### Cases

<i>Action NC v. Strach</i> , 216 F. Supp. 3d 597 (M.D. N.C. 2016) .....	14, 15
<i>Anderson v. Celebrezze</i> , 460 U.S. 780 (1983).....	19, 22
<i>Anderson v. Liberty Lobby, Inc.</i> , 447 U.S. 242 (1986).....	13
<i>Arcia v. Florida Sec’y of State</i> , 772 F.3d 1335 (11th Cir. 2014) .....	13
<i>Ass’n of Cmty. Organizations for Reform Now (ACORN) v. Edgar</i> , 56 F.3d 791 (7th Cir. 1995) .....	3
<i>Burdick v. Takushi</i> , 504 U.S. 428, 434 (1992).....	19, 20, 22
<i>Bush v. Gore</i> , 531 U.S. 98, 104 (2000).....	19
<i>Charles H. Wesley Educ. Found., Inc. v. Cox</i> , 408 F.3d 1349 (11th Cir. 2005) .....	13
<i>Crawford v. Marion County Election Bd.</i> , 553 U.S. 181 (2008).....	19, 20
<i>Crowe v. Henry</i> , 115 F.3d 294 (5th Cir. 1997) .....	13
<i>Ferrand v. Schedler</i> , 2012 WL 1570094 (E.D. La. May 3, 2012).....	14
<i>Fish v. Kobach</i> , 840 F.3d 710 (10th Cir. 2016) .....	14
<i>Georgia State Conference of NAACP. v. Kemp</i> , 841 F. Supp. 2d 1320 (N.D. Ga. 2012).....	14, 15
<i>Harper v. Va. State Bd. of Elections</i> , 383 U.S. 663 (1966).....	19
<i>In re Dale</i> , 582 F.3d 568 (5th Cir. 2009) .....	14
<i>Kusper v. Pontikes</i> , 414 U.S. 51 (1973).....	22
<i>Norman v. Reed</i> , 502 U.S. 279 (1992).....	20



<i>Northeast Ohio Coalition for the Homeless v. Husted</i> , 837 F.3d 612 (6th Cir. 2016), (cert. denied, 2017 WL 881266 (U.S. June 19, 2017) .....	23
<i>Obama for America v. Husted</i> , 697 F.3d 423 (6th Cir. 2012). .....	19
<i>Project Vote/Voting for Am., Inc. v. Long</i> , 682 F.3d 331 (4th Cir. 2012) .....	15
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964). .....	3
<i>Voting Rights Coal. v. Wilson</i> , 60 F.3d 1411 (9th Cir. 1995) .....	3

## **Statutes and Rules**

28 U.S.C. § 2201 .....	25
37 Tex. Admin. Code § 15.59(c) .....	5
52 U.S.C. § 20503(a)(1) .....	15
52 U.S.C. § 20504 .....	2, 5
52 U.S.C. § 20504(a)(1) .....	2, 15
52 U.S.C. § 20504(a)(2). .....	15
52 U.S.C. § 20504(c)(1) .....	2, 15
52 U.S.C. § 20504(c)(2). .....	17
52 U.S.C. § 20504(d). .....	2, 16
52 U.S.C. § 20504(e). .....	18
52 U.S.C. § 20504(e)(1)-(2). .....	18
52 U.S.C. § 20507(a)(1)(A). .....	18
52 U.S.C. § 20509 .....	5
52 U.S.C. § 20510(b)(1) .....	23
52 U.S.C. § 20510(b)(2) .....	23, 25
Fed. R. Civ. P. 56(a) .....	13
Tex. Elec. Code § 31.001 .....	5
Tex. Elec. Code § 20.001(b) .....	5
Tex. Elec. Code § 20.061-66 .....	5
Tex. Gov't Code § 2054.252 .....	8
Tex. Gov't Code § 2054.271 .....	8

Since before 2010, Texas has failed to comply with the National Voter Registration Act (NVRA) and violated the Equal Protection Clause of the Fourteenth Amendment, stripping from millions of Texans their right to register to vote during online driver's license renewal and change-of-address transactions. Plaintiffs are eligible Texas voters who were denied voter registration during NVRA-covered online driver's license transactions and, thereafter, disenfranchised. They respectfully ask the Court to render final summary judgment against Defendants and order the State of Texas to take immediate steps to adhere to the Constitution and federal law.

### **PRELIMINARY STATEMENT**

The central fact of this case has never been disputed: When eligible Texans update their driver's licenses online with the Department of Public Safety (DPS), they are not offered a simultaneous application to register to vote or update their voter registration information.<sup>1</sup> As this Court has already held, the NVRA requires that each driver's license application, including any renewal application, simultaneously serve as an application for voter registration, and that each change-of-address form be used to update the voter's registration records.

Texas's refusal to integrate voter registration into its online driver's license renewal and change-of-address process affects nearly 1.5 million Texans annually, including the Plaintiffs here. Each Plaintiff moved within Texas, changed his driver's license address using DPS's online driver license renewal and change-of-address website, indicated "Yes" in response to the prompt "I want to register to vote," but was not registered to vote. Each Plaintiff, although eligible to do so, was prevented from fully exercising his fundamental right to vote in a subsequent election due to his outdated registration record.

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<sup>1</sup> As Defendants put it, "[t]he key facts of this case are not disputed." Defs.' Reply in Supp. of Mot. to Dismiss, Dkt. 12 at 6; *see also* Joint Report on Alternative Dispute Resolution, Dkt. 22 at 2 (stating that the parties agree "that their primary dispute is legal, rather than factual").

Texas has known for years that its online driver’s license transaction practices disenfranchise large numbers of voters. Between September 2013 and February 2015, for instance, more than 1,800 Texans complained about Texas’ failure to register individuals to vote through the DPS online driver’s license application, according to the State’s own records. Yet Texas took no meaningful steps to fix its process. Instead, adding insult to injury, DPS *encourages* the use of the online system over in-person transactions, resulting—predictably—in a dramatic uptick in online transactions and, by extension, injured prospective voters.

The State does not claim that NVRA compliance would be too expensive or burdensome. Instead, Texas seeks to contort the plain language of the law to justify its current processes. According to the Defendants, even though the NVRA provides “simultaneous application for voter registration” by requiring that “each . . . driver’s license application . . . serve as an application for voter registration,” 52 U.S.C. § 20504, what it means is something else entirely. The State asserts that it must offer nothing more than a simultaneous *opportunity* to register to vote during an online driver’s license transaction, which can be satisfied by forcing online DPS customers to retrieve, print, complete, and mail an entirely separate and duplicative voter registration application after finishing their online transaction. This Court rightfully rejected that reading of the NVRA, holding that the law clearly prohibits Texas’s procedure because the NVRA requires not only “that the applications be simultaneous, but discusses them in terms of a single transaction.”<sup>2</sup> Accordingly, and as this Court found, Texas’s refusal to treat online driver’s license renewal and change-of-address forms as voter registration applications violates the NVRA.

No doubt recognizing the weakness of its “simultaneous opportunity” argument, the State makes another, even bolder argument—that the NVRA gives states the prerogative to legislate

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<sup>2</sup> Order, Dkt. 52 at 11 (citing 52 U.S.C. §§ 20504(a)(1), 20504(c)(1), 20504(d)).

away the law's mandates if a state determines that the NVRA conflicts with state law. Since Texas law requires a voter's signature on a voter registration form, Defendants claim that the NVRA permits Texas to flout the statute's simultaneous-application requirement and require DPS customers to fill out and sign an *entirely separate* voter registration form after providing *identical* information to DPS during an NVRA-covered transaction. The NVRA, of course, permits no such thing. As a federal law, long upheld against constitutional challenge, it preempts any conflicting state requirements. *Voting Rights Coal. v. Wilson*, 60 F.3d 1411, 1415–16 (9th Cir. 1995); *Ass'n of Cmty. Organizations for Reform Now (ACORN) v. Edgar*, 56 F.3d 791, 794–795 (7th Cir. 1995).<sup>3</sup> Moreover, as this Court noted, this argument is a red herring: In fact, anyone using DPS's online driver license renewal and change-of-address system has *already provided* the state with his signature, which Texas *already uses* to update their voter registration files in some circumstances.<sup>4</sup>

“The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Reynolds v. Sims*, 377 U.S. 533, 555 (1964). Too many Texas voters have been unlawfully denied voter registration, just like the Plaintiffs, because of the State's longstanding failure to comply with the NVRA. Another federal election cycle is fast approaching; the deadline to register to vote for the March primary election is a little more than seven months away.<sup>5</sup> Given that the fundamental right to vote is at stake for millions of Texas voters, the Court should order immediate compliance with the NVRA and the Constitution. The State should be

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<sup>3</sup> See also Dkt. 52 at 14–16.

<sup>4</sup> *Id.* at 16–18.

<sup>5</sup> The deadline for the March 2018 primaries is February 5, 2018. See Important 2018 Election Dates, <http://www.sos.state.tx.us/elections/voter/2018-important-election-dates.shtml> (last visited June 28, 2017).

required to fully implement Plaintiffs' requested remedy within three months of the Court's order and no later than January 1, 2018.

### **BACKGROUND**

Between May and November 2015, Plaintiffs' counsel wrote to Defendants' counsel several times to notify Defendants about Plaintiffs' claims regarding violations of the NVRA.<sup>6</sup> Defendants did not make the changes Plaintiffs stated were necessary to correct the violations prior to Plaintiffs filing suit on March 14, 2016, nearly four months after the last notice letter. Plaintiffs thus brought this lawsuit to enforce the state's duties.

Defendants moved to dismiss, but the Court denied the motion, holding that "standing has been established and that Plaintiffs have stated claims upon which relief can be granted under both the NVRA and the Equal Protection Clause."<sup>7</sup>

Since August 3, 2016, when this Court entered its first Scheduling Order in this matter, Plaintiffs have conducted discovery in good faith and as expeditiously as possible. Defendants, on the other hand, purposely delayed responding to Plaintiffs' discovery requests for months after the documents were due, requiring Plaintiffs to obtain a Court Order compelling Defendants' responses—an Order Defendants were ultimately sanctioned for intentionally violating. Since their initial pre-litigation communications in May 2015, Plaintiffs have continued to emphasize the need to resolve this matter as soon as possible, well before the 2018 election, but Defendants have repeatedly, purposefully delayed.

### **UNDISPUTED FACTS**

DPS operates offices around the state and issues driver's licenses and other state identification cards. DPS's in-person application forms and mail-in change-of-address forms

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<sup>6</sup> Dkt. 52 at 7-9; Appx. 2-21 (Ex. 1, May 27, 2015 Notice Letter, D\_009849-64); Appx. 23-24 (Ex. 2, Oct. 23, 2015 Notice Letter); Appx. 26-27 (Ex. 3, Nov. 18, 2015 Notice Letter).

<sup>7</sup> Dkt. 52 at 21.



currently serve as simultaneous voter registration applications as required under the NVRA.<sup>8</sup> DPS's online renewal and change-of-address form does not, however, serve as a simultaneous voter registration application.<sup>9</sup>

Defendant Rolando Pablos is Secretary of State and serves as Texas's Chief Election Officer, responsible for coordinating Texas's compliance with the NVRA.<sup>10</sup> That office agrees that the NVRA applies to *all* driver's license application transactions, including online transactions.<sup>11</sup> DPS is responsible under state and federal law for providing voter registration services to customers and transmitting voter registration information to the SOS.<sup>12</sup>

**A. DPS seamlessly integrates voter registration into its mail-in change-of-address and in-person driver's license applications.**

DPS's protocol for providing voter registration to customers who interact with DPS in person (for a new driver's license application, a renewal, or a change-of-address), and for customers who utilize DPS's mail-in change-of-address form, is in line with NVRA requirements. A DPS customer who decides to or is required to transact with DPS in person must fill out the relevant driver's license form with personal information in order to obtain, update, or renew his driver's license.<sup>13</sup> DPS uses different forms depending on the type of transaction: form DL-14A for an original (in-person) Application for Texas Driver License or Identification

<sup>8</sup> Appx. 31 (Ex. 4, Texas Department of Public Safety Implementation Plan, D\_00021063 at D\_00021065);

<sup>9</sup> Appx. 33 (Ex. 5, Excerpt, Texas Secretary of State Elections Division 34<sup>th</sup> Annual Election Law Seminar, "DPS Voter Inquiry Web Portal" 669, D\_00014211 at slide 3).

<sup>10</sup> 52 U.S.C. § 20509, Tex. Elec. Code § 31.001

<sup>11</sup> Appx. 40 (Ex. 6, Excerpts of Mar. 22, 2017 30(b)(6) Deposition of Keith Ingram, SOS's designee ("Ingram 30(b)(6) Dep.") 62:04-17 ("whenever a person has a driver's license transaction . . . they should be simultaneously offered the right—the ability to update their voter registration or register to vote for the first time. That's why the NVRA is called the Motor Voter law.")).

<sup>12</sup> 52 U.S.C. § 20504, Tex. Elec. Code §§ 20.001(b), 20.061-66; Appx. 113 (Ex. 15, DPS's Suppl. Resps. to Jarrod Stringer's First Requests for Admission ("RFAs"), No. 4).

<sup>13</sup> DPS customers are required to renew their driver's license in-person every 12 years. 37 Tex. Admin. Code § 15.59(c).

Card,<sup>14</sup> form DL-43 for an in-person Application for Renewal/Replacement/Change of a Texas Driver License or Identification Card,<sup>15</sup> and form DL-64 for a mail-in Application for Change-of-address on Valid Texas Driver (DL) & Identification Card (ID).<sup>16</sup> For each, the driver's license and voter registration process has been combined into one seamless transaction so that—in order to register or update voter registration information—the customer need only take one additional step related to voter registration—check a single box *on these same forms*:

#### DL-14A and DL-43, in-person driver's license forms

##### REQUIRED INFORMATION FROM ALL APPLICANTS

- |    | YES                      | NO                       |  |
|----|--------------------------|--------------------------|--|
| 1. | <input type="checkbox"/> | <input type="checkbox"/> | Are you a citizen of the United States?  |
| 2. | <input type="checkbox"/> | <input type="checkbox"/> | If you are a US citizen, would you like to register to vote? If registered, would you like to update your voter information? |
- By providing my electronic signature, I understand the personal information on my application form and my electronic signature will be used for submitting my voter's registration application to the Texas Secretary of State's office. Wanting to register to vote, I authorize the Department of Public Safety to transfer this information to the Texas Secretary of State.

#### DL-64, mail-in change-of-address form

If you are a US citizen,  
would you like to register to  
vote? If registered, would  
you like to update your  
voter information?

Yes ☐ No ☐

Except for this simple, integrated step of checking a box, the in-person and mail-in change-of-address customer does not have to take any further action to ensure he is registered to vote. The customer is not required to retrieve, complete, print, and mail a separate voter

<sup>14</sup> Appx. 50-51 (Ex. 7, DL-14A (Rev. 2-17)), *see also* Texas Department of Public Safety, Application for Texas Driver License or Identification Card, <https://www.dps.texas.gov/internetforms/Forms/DL-14A.pdf> (last visited June 18, 2017).

<sup>15</sup> Appx. 53-54 (Ex.8, DL-43 (Rev. 2-17)), Texas Department of Public Safety, Application for Renewal/Replacement/Change of Texas Driver License or Identification Card, <http://www.dps.texas.gov/Internetforms/Forms/DL-43.pdf> (last visited June 18, 2017).

<sup>16</sup> Appx. 56-57 (Ex.9, DL-64 (Rev. 2-17)) *see also* Texas Department of Public Safety, Application for Change-of-address on Valid Texas Driver License (DL) & Identification Card (ID), <http://www.dps.texas.gov/Internetforms/Forms/DL-64.pdf> (last visited June 18, 2017).

registration application; instead, DPS transmits the voter's file to SOS upon receipt of a completed mail-in change-of-address form or in-person driver's license applications.<sup>17</sup>

Upon receipt of DPS customers' voter registration information, SOS then transmits the data to local voter registrars who are responsible for completing the voter registration process.<sup>18</sup> Ultimately, within thirty days after checking "yes" on the relevant in-person or mail-in change-of-address form, the DPS customer should receive his new or updated voter registration card in the mail.<sup>19</sup> Notably, for all mail-in change-of-address transactions, it is the customer's previously-provided electronic signature—the one provided during the customer's last *in-person* transaction—that is used for voter registration purposes.<sup>20</sup> In fact, a customer's electronic signature is used for voter registration purposes for *all* voter registration applications originating at DPS.<sup>21</sup>

**B. Defendants do not provide simultaneous voter registration applications with online transactions, but instead require additional steps and duplicative information before a customer can register or update their voter registration information.**

In stark contrast to the ease with which a customer may register to vote or update his voter registration information via in-person or mail-in change-of-address driver's license forms,

<sup>17</sup> Appx. 66-67 (Ex. 10, Excerpts of Mar. 7, 2017 30(b)(6) Deposition of Sheri Gipson, DPS's designee ("Gipson 30(b)(6) Dep.") 101:24-102:09).

<sup>18</sup> Appx. 98 (Ex. 13, SOS's Suppl. Resps. to Jarrod Stringer's First RFAs, No. 13); *See* Appx. 43 (Ex. 6, Ingram 30(b)(6) Dep. 173:9-10); Appx. 110 (Ex. 14, Excerpt from Secretary of State's 32nd Annual Election Law Seminar, Voter Registration 102 presentation, P003060, Voter Registration Presentation, slide 14, P003982 at P003995) (produced to Plaintiffs as bates D\_00008318-8354 marked as "confidential" and so not attached here).

<sup>19</sup> *See* Appx. 43-44 (Ex. 6, Ingram 30(b)(6) Dep. 173:16-174:09).

<sup>20</sup> Appx. 89 (Ex. 12, Excerpts of Feb. 17, 2017 30(b)(6) Deposition of John Crawford ("Crawford 30(b)(6) Dep.") 139:10-21); *see also* Appx. 50-51 (Ex. 7, DL-14A); Appx. 53-54 (Ex.8, DL-43).

<sup>21</sup> Appx. 69 (Ex. 10, Gipson 30(b)(6) Dep. 203:19-204:-7.); Appx. 42 (Ex. 6, Ingram 30(b)(6) Dep. 97:04-14); Notably, although DPS obtains a handwritten signature on the in-person and mail change-of-address forms, those signatures are not transmitted to SOS for voter registration purposes, nor are they compared for identity-verification purposes except in the rare case of suspected fraud or theft. Appx. 79-80 (Ex. 11, Excerpts of Jan. 31, 2017 Deposition of Sheri Gipson ("Gipson Dep.") 234:11-237:15, 254:04-07); *see also* Appx. 87-88 (Ex. 12, Crawford 30(b)(6) Dep. 73:22-74:14), Appx. 39 (Ex. 6, Ingram 30(b)(6) Dep. 50:01-11).

a customer transacting with DPS online must retrieve, complete, print, and mail an entirely *separate* voter registration application—which requires that he again provide information already collected by DPS—in order to register or update his voter registration information.

DPS’s Driver License Renewal and Change-of-address website page provides a single online portal for qualified holders of a Texas driver’s license to renew their driver’s license, update the address listed on their driver’s license, or both.<sup>22</sup> For DPS purposes, updating or renewing a driver’s license online comports with state law, and does not require a new signature.<sup>23</sup>

A customer wishing to renew or update his driver’s license online must first provide his driver’s license number, date of birth, driver’s license audit number, and the last four digits of his social security number, which DPS’s vendor uses to check against DPS’s system in real time to verify the customer’s eligibility to transact online with DPS.<sup>24</sup> If eligible, the customer must then enter additional personal information.<sup>25</sup>

From 2010 to February 2016, when users reached Step 5 of the online process, DPS prompted the customer to choose “yes” or “no” in response to the statement, “I want to register to vote.”<sup>26</sup> Checking “yes” to the voter registration question at Step 5 does one thing only—it

<sup>22</sup> Appx. 117 (Ex. 15, DPS’s Suppl. Resps. to Benjamin Hernandez’s First RFAs, No. 5).

<sup>23</sup> Appx. 70 (Ex. 10, Gipson 30(b)(6) Dep. 215:21-216:7).

<sup>24</sup> Appx. 70-72 (*Id.* at 217:21-219:16, 223:17-224:05). These four data points required for online transactions with DPS are also required by the Texas Online Authentication System (TOAS), which is used by various state agencies to authenticate customers’ identity, and “may be used by the state agency or local government as an alternative to requiring a notarized document, a document signed by a third party, or an original signature on a document.” Tex. Gov’t Code § 2054.271; *see also* Tex. Gov’t Code § 2054.252.

<sup>25</sup> Appx. 130 (Ex. 16, Texas Department of Public Safety Driver License Renewal and Change-of-address webpage, D\_00021840). Only United States citizens are allowed to renew or update their driver’s licenses online. *See* Texas Department of Public Safety, Online Services Eligibility, [https://txapps.texas.gov/tolapp/txdl/eligibility.dl?locale=en\\_US](https://txapps.texas.gov/tolapp/txdl/eligibility.dl?locale=en_US) (last visited June 26, 2017).

<sup>26</sup> Appx. 118 (Ex. 15, DPS’s Suppl. Resps. to Benjamin Hernandez’s First RFAs, Nos. 7-8); *see also* Appx. 124-125 (Ex. 15, DPS’s Suppl. Resps. to Totysa Watkins’ First RFAs, Nos. 26-28). Shockingly, until September 2016, the “yes”/“no” radio buttons from which a customer had to

prompts the system to provide a link on the customer's receipt to an entirely different website, where voters must "download[] or request[]" a physical voter registration form.<sup>27</sup> To complete the voter registration process following an online DPS transaction, the customer must download a voter registration form, print the form, fill out the form, and mail it in.<sup>28</sup>

Much of the information on the voter registration form is duplicative of information the customer already provided during the online transaction with DPS. In fact, just as voter registration forms do, DPS's online change-of-address or combined change-of-address and renewal forms require the following: date of birth, Texas driver's license number, residence address, residence city, residence zip code, residence county and, if it differs from residence, mailing address, mailing city, and mailing zip code.<sup>29</sup> Although the customer provides *this exact same information* to DPS during his online driver's license transaction, DPS fails to transfer this voter registration data to the Secretary of State.<sup>30</sup> What is more, DPS does not even record the answer to the online voter registration question.<sup>31</sup> This means, in order for a Texan who renews or changes his address online with DPS to become registered to vote, he must, in addition to

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choose automatically defaulted to "no." SOS knew of this problem as early as 2012 but allowed four years to pass before it was corrected. Appx. 41 (Ex. 6, Ingram 30(b)(6) Dep. 84:24-85:3). The screenshot of Step 5 of the DPS driver license renewal and change-of-address system attached to Plaintiffs' Complaint depicts this default selection. Dkt. 1-2 at 2; Dkt. 52 at 10.

<sup>27</sup> Appx. 63-65 (Ex. 10, Gipson 30(b)(6) Dep. 77:23-78:9 and 94:1-4); Appx. 132-133 (Ex. 17, Screenshot of "Driver License Renewal Receipt and Temporary License," D\_00015308-09).

<sup>28</sup> Appx. 135 (Ex. 18, Screenshot of Voter Registration Application from <https://webservices.sos.state.tx.us/vrapp/index.asp> (last visited June 28, 2017)); Appx. 137-138 (Ex. 19, Texas Voter Registration Application, Produced as Ex. 3-L to Gipson 30(b)(6) Dep.). The customer may also request to receive a blank application in the mail; *see also* Appx. 140-147 (Ex. 20, Feb. 2016 Driver License Renewal and Change of Address screen shots, Produced as Ex. 3-T to Gipson 30(b)(6) Dep.). For an online renewal application only, the customer must provide his date of birth and Texas driver's license number, two of the same data points required for the voter registration form.

<sup>29</sup> Compare *Id.* to Appx. 72 (Ex. 10, Gipson 30(b)(6) Dep. 223:17-224:05) and Appx. 130 (Ex. 16, Texas Department of Public Safety Driver License Renewal and Change-of-address webpage, D\_00021840-41).

<sup>30</sup> Appx. 69 (Ex. 10, Gipson 30(b)(6) Dep. 204:17-21)

<sup>31</sup> Appx. 78 (Ex. 11, Gipson Dep. 136:10-19).



providing at least six data points to DPS during the online transaction, *also* fill out a voter registration form and provide six of those *same* data points.

It is undisputed, then, that under Texas's current online driver's license renewal and change-of-address system, Defendants do not treat online driver's license renewals and change-of-address submissions as simultaneous voter registration applications.<sup>32</sup> Instead, eligible applicants who indicate they wish to register to vote or update their voter registration during an online transaction must take additional steps after submitting their information online; otherwise, Texas does not register them to vote.

**C. Plaintiffs moved from one Texas county to another, transacted with DPS online to update their driver's license information, and checked "yes" to the voter registration question, yet Defendants failed to update their voter registration information and Plaintiffs were denied the chance to cast a regular ballot in an election.**

***1. Benjamin Hernandez***

Plaintiff Benjamin Hernandez is a lifelong Texas resident who moved to Dallas County from Ector County in February 2013.<sup>33</sup> Prior to his move, Mr. Hernandez was registered to vote in Ector County, where he voted regularly since turning 18.<sup>34</sup> After his move, he updated his driver's license address online.<sup>35</sup> Wanting to update his voter registration information, Mr. Hernandez checked "yes" to the voter registration question during that online transaction and thereafter believed he was registered to vote in Dallas County.<sup>36</sup> On Election Day 2014, Mr.

<sup>32</sup> Appx. 118, 123-124 (Ex. 15, DPS's Suppl. Resps. to Hernandez's First RFAs. Nos. 10-11); Appx. 123-124 (Ex. 15, DPS's Suppl. Resps. to Watkins' First RFAs. Nos. 20-25).

<sup>33</sup> Answer, Dkt. 57 at ¶¶ 16, 46.; Appx. 155 and 164 (Ex. 21, Excerpts of May 18, 2017 Deposition of Benjamin Hernandez ("Hernandez Dep.") 27:14-22, 43:07-09).

<sup>34</sup> Appx. 154 and 163 (Ex. 16, Hernandez Dep. at 19:2-8, 19:21-22; 42:17-43:06).

<sup>35</sup> Appx. 155-156 and 163 (*Id.* at 27:23-28:06; 43:07-13).

<sup>36</sup> Appx. 153 and 155-157 (*Id.* at 18:6-12; 27:23-29:07).

Hernandez attempted to vote in Dallas County, but was told that his name was not on the rolls.<sup>37</sup> Mr. Hernandez cast a provisional ballot, but later received notice that his vote was not counted.<sup>38</sup>

## **2. Jarrod Stringer**

Plaintiff Jarrod Stringer moved from Tarrant County to Bexar County in August of 2014.<sup>39</sup> Prior to his move, Mr. Stringer was registered to vote in Tarrant County.<sup>40</sup> After moving, Mr. Stringer updated his driver's license address online, checking "yes" to the voter registration question and intending to update his voter registration.<sup>41</sup> Thereafter, he believed his voter registration records were updated.<sup>42</sup> Mr. Stringer attempted to vote early in the 2014 general election, but was told that he was not registered.<sup>43</sup> Mr. Stringer then called Bexar County election officials and was told that he was not registered in Bexar County and could only vote a limited ballot with statewide candidates.<sup>44</sup> When Mr. Stringer explained that he had changed his address through DPS's website, the election officials with whom he spoke told Mr. Stringer that the county was aware of "problems through DPS."<sup>45</sup>

## **3. John Woods**

Plaintiff Dr. John O. Woods III changed his residence from Travis County to Harris County in June 2015.<sup>46</sup> Prior to this move, Dr. Woods was registered to vote in Travis County.<sup>47</sup>

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<sup>37</sup> Appx. 161 and 158-159 (*Id.* at 37:8-13, 32:23-33:19).

<sup>38</sup> Appx. 159-160 (*Id.* at 33:20-34:11); Defs.' Dkt. 57 at ¶ 46. Mr. Hernandez was added to the voter registration rolls in Dallas County one month after he attempted to vote on Election Day 2014. *Id.*; Appx. 162 (Ex. 21, Hernandez Dep. at 39:04-09).

<sup>39</sup> Appx. 177 (Ex. 22, Excerpts of May 3, 2017 Deposition of Jarrod Stringer ("Stringer Dep.") at 31:01-08).

<sup>40</sup> Dkt. 57 at ¶ 47.

<sup>41</sup> Appx. 95 (Ex. 13, SOS's Suppl. Resps. to Jarrod Stringer's First RFAs, No. 3); Appx. 173 and 177-179 (Ex. 22, Stringer Dep. 15:08-24; 31:9-33-1).

<sup>42</sup> Appx. 173 and 178-179 (Ex. 22, Stringer Dep. 15:08-24; 32:16-33:01).

<sup>43</sup> Appx. 180-181 (*Id.* 45:7-46:5).

<sup>44</sup> Appx. 174-175 and 181-182 (*Id.* 16:16-17:5, 46:15-47:17).

<sup>45</sup> Appx. 182 (*Id.* 47:8-11).

<sup>46</sup> Appx. 198 (Ex. 23, Excerpts from May 5, 2017 Deposition of John Woods ("Woods Dep.") 62:11-18).

In September 2015, Dr. Woods changed his driver's license address online and checked "yes" to the voter registration question.<sup>48</sup> He believed that his voter registration records were updated as a result.<sup>49</sup> Shortly thereafter, Dr. Woods went to a local library, where he was offered an opportunity to register to vote.<sup>50</sup> He declined that opportunity, however, because he believed that his voter registration records had already been updated.<sup>51</sup> Dr. Woods called Harris County on Election Day 2015 to confirm his polling location, and was informed that he was not registered in Harris County and that any provisional ballot he cast there would likely not be counted.<sup>52</sup> Nonetheless, Dr. Woods went to his local polling location and cast a provisional ballot.<sup>53</sup> He later received notice that his vote was not counted.<sup>54</sup> Defendants did not treat Dr. Woods's online driver's license application as a voter registration application.

**D. DPS is technologically capable of collecting and transmitting voter-registration information from online transactions to SOS and doing so would not be cost prohibitive.**

The change Plaintiffs request—requiring DPS to record and transfer the registration information it already collects and confirms during online driver's license renewal or change-of-address to the SOS, along with the customer's previously-obtained electronic signature, and requiring SOS to transfer the voter registration information to local voter registrars—is possible and would not be overly burdensome.<sup>55</sup> Director of Elections Keith Ingram, SOS's 30(b)(6) designee, essentially drilling down to Defendants' core defense, testified, "This is a very possible

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<sup>47</sup> Appx. 197 (Ex. 23, Woods Dep. 34:06-25).

<sup>48</sup> Appx. 195-196 (*Id.* 25:16-26:2).

<sup>49</sup> Appx. 194-196 (*Id.* 22:03-13; 25:22-26:5); Appx. 103 (Ex. 13, SOS's Suppl. Resps. to John Woods' First RFAs, No. 1).

<sup>50</sup> Appx. 199 (Ex. 23, Woods Dep. 63:10-25).

<sup>51</sup> Appx. 199 (*Id.* 63:10-25).

<sup>52</sup> Appx. 200-201 (*Id.* 64:1-65:9).

<sup>53</sup> Appx. 202-203 (*Id.* 66:25-67:18).

<sup>54</sup> Appx. 202 (*Id.* 66:6-11).

<sup>55</sup> Appx. 68 (Ex. 10, Gipson 30(b)(6) Dep. 175:24-176:8); Appx. 90 (Ex. 12, Crawford Dep. 143:25-144:21).

thing to do what you're saying if it was legal, and it's not legal.”<sup>56</sup> In fact, DPS and SOS already do for in-person and mail-in change-of-address transactions exactly that which Plaintiffs request this Court order for online transactions. Moreover, implementing Plaintiffs' request would be even easier than the current process for in-person and mail-in change-of-address transactions because DPS *customers* would be entering their data into the system instead of DPS customer service representatives

Nor do Defendants claim that the cost of Plaintiffs' requested remedy would be prohibitive. Mr. Ingram opined that it would not cost a lot of money for DPS to send the previously obtained electronic signature to SOS, and further estimated that the cost of a fully online voter registration program, which goes beyond what Plaintiffs seek, would be \$182,000.<sup>57</sup>

### LEGAL STANDARD

Summary judgment is warranted if “the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”<sup>58</sup> A dispute as to a material fact is genuine if the evidence is sufficient to permit a reasonable factfinder to return a verdict for the nonmoving party. *Crowe v. Henry*, 115 F.3d 294, 296 (5th Cir. 1997). A fact is material if its resolution could affect the outcome of the action under governing law, and “[f]actual disputes that are irrelevant or unnecessary will not be counted.” *Anderson v. Liberty Lobby, Inc.*, 447 U.S. 242, 248 (1986). Summary judgment is proper, then, if under governing law there is only one reasonable conclusion as to the verdict. *Id.* at 249.

### ARGUMENT

The right to vote is fundamental, and Texas's violations injured and will continue to injure Plaintiffs and many more eligible Texas voters. *Arcia v. Florida Sec'y of State*, 772 F.3d

<sup>56</sup> Appx. 46 (Ex. 6, Ingram 30(b)(6) Dep. 186:5-13).

<sup>57</sup> Appx. 45-46 (*Id.* 184:12-185:5, 186:21-187:24).

<sup>58</sup> Fed. R. Civ. P. 56(a).

1335, 1341 (11th Cir. 2014) (finding that individual voters removed from rolls in violation of Section 8 of NVRA had standing to sue for prospective relief even after they were reinstated, because of “realistic probability” that ongoing violations could again affect their registration status); *Charles H. Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1352 (11th Cir. 2005) (“A plaintiff need not have the franchise wholly denied to suffer injury... [State resident’s] alleged injuries flow directly from the denial of her registration form.”); *Ferrand v. Schedler*, 2012 WL 1570094 \*6 (E.D. La. May 3, 2012); *Georgia State Conference of NAACP v. Kemp*, 841 F. Supp. 2d 1320, 1331 (N.D. Ga. 2012).

It is undisputed that (1) Plaintiffs are eligible Texas voters who changed their driver’s license addresses online and checked “yes” in response to the question “I would like to register to vote,” and (2) Defendants did not treat this transaction as a simultaneous voter registration application. The material facts are settled. Summary judgment is warranted here because these undisputed facts establish as a matter of law that Defendants violate the NVRA and the Equal Protection Clause by failing to treat online driver’s license renewals or change-of-address applications as simultaneous applications to register to vote or update voter registration, in glaring contrast to the way that in-person and mail transactions are treated. For these reasons, Plaintiffs are entitled to summary judgment in their favor on all claims.

**A. Texas’ failure to treat online DPS transactions as voter registration applications violates the NVRA**

***1. The plain language of the NVRA controls***

“Statutory construction, of course, begins with the plain language of statute.” *In re Dale*, 582 F.3d 568, 573 (5th Cir. 2009). Where the plain language of the statute is clear, federal courts are compelled to apply the statute’s mandate. Multiple courts have struck down state policies in violation of the plain language mandates of the NVRA. *Action NC v. Strach*, 216 F. Supp. 3d 597, 633-634 (M.D. N.C. 2016) (finding that a plain language interpretation of Section 5 of the



NVRA includes remote driver's license transactions); *Fish v. Kobach*, 840 F.3d 710, 732-740 (10th Cir. 2016) (upholding plain language interpretation of Section 5 of the NVRA to preempt state law requiring more than "minimum amount of information necessary" for voter registration); *Project Vote/Voting for Am., Inc. v. Long*, 682 F.3d 331, 335 (4th Cir. 2012) (upholding plain language interpretation of Section 8 of the NVRA to allow for disclosure of voter registration applications); *Action NC v. Strach*, 216 F. Supp. 3d 597, 633-634 (M.D. N.C. 2016) (finding that a plain language interpretation of Section 5 of the NVRA includes remote driver's license transactions); *Ga. State Conference of N.A.A.C.P.*, 841 F. Supp. 2d at 1329, 1330, 1335 (finding, in part, that plain language interpretation of Section 7 of the NVRA requires an assistance office supplying an application for assistance to distribute voter registration and voter preference forms regardless of whether the application was made in person). In its Order denying Defendants' Motion to Dismiss, this Court found the state violates the plain language of the NVRA in failing to allow online DPS transactions to serve as voter registration applications.<sup>59</sup>

***2. Defendants fail to treat online driver's license renewal applications as "simultaneous" voter registration applications in violation of 52 U.S.C. §§ 20503(a)(1), 20504(a)(1), and 20504(a)(2).***

The NVRA requires that "each" driver's license application, including "any" renewal application, simultaneously serve as an application for voter registration.<sup>60</sup> Moreover, the NVRA mandates that each voter registration application submitted to the state motor vehicle authority as part of a driver's license application, including any renewal application, update any previous registration by the applicant.<sup>61</sup>

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<sup>59</sup> Dkt. 52 at 14.

<sup>60</sup> 52 U.S.C. §§ 20503(a)(1), 20504(a)(1), 20504(c)(1); Dkt. 52 at 11, 18.

<sup>61</sup> 52 U.S.C. § 20504(a)(2).

As set out above, Defendants do not, and cannot, dispute that the NVRA applies to all driver's license application transactions, including online transactions. *Action NC v. Strach*, 216 F.Supp.3d at 622-23 (holding that “the words “each” and “any” in Section 5 require voter registration services to be provided with all covered transactions[,]” including remote application, renewal, and change-of-address transactions). Nor do they dispute that in Texas, driver's license renewal applications submitted to DPS online do not serve as simultaneous applications for voter registration, or that Defendants do not treat driver's license change-of-address applications submitted to DPS online as updating an applicant's previous voter registration. Instead, Defendants claim that the NVRA merely requires a “simultaneous *opportunity to apply* to register vote,” contorting the plain language of the NVRA. Under Defendants' reading of the law, states are allowed to force voters to take additional steps to register to vote after completing their DPS transaction.

This Court considered and rejected Texas's argument, concluding that while a voter's registration need not be “effected simultaneously with their NVRA-covered driver's license transaction,” the NVRA requires that the actual application for voter registration be simultaneous with the NVRA-covered driver's license application in “a single transaction.”<sup>62</sup> Accordingly, “[w]here, as here, Defendants have chosen to offer an online forum for NVRA-covered driver's license transactions, the NVRA thus requires them to accept voter registration applications through that forum simultaneously with the NVRA-covered driver's license submissions that forum supports.”<sup>63</sup>

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<sup>62</sup> Dkt. 52 at 11.

<sup>63</sup> *Id.* at 20.

**3. Defendants fail to treat online driver's license change-of-address applications as notifications for voter registration in violation of 52 U.S.C. § 20504(d).**

Under the NVRA, all change-of-address forms submitted “in accordance with State law for purposes of a State motor vehicle driver's license” must also serve as a notification of change-of-address for voter registration purposes “unless the registrant states on the form that the change-of-address is not for voter registration purposes.”<sup>64</sup> Driver's license “change-of-address forms must have equal effect as voter registration change-of-address forms[.]”<sup>65</sup> DPS concedes that a customer who has changed his driver's license address online—like each of the Plaintiffs here—has done so in accordance with state law, which does not impose a signature requirement on changes of address. It is undisputed that Defendants do not treat these online submissions to DPS as notifications of change-of-address for voter registration purposes. As this Court found, this “is inconsistent with the plain language of the NVRA.”<sup>66</sup>

**4. Defendants' requirement that applicants submit a separate voter registration application upon completion of online transactions violates the NVRA's prohibition against requiring duplicative information, 52 U.S.C. § 20504(c)(2).**

The NVRA states that the voter-registration section of driver's license application forms “may not require any information that duplicates information required in the driver's license portion of the form[.]”<sup>67</sup> This Court held that Defendants' procedures violate the NVRA's limits on duplicative information requirements, as the separate voter registration form that DPS directs its customers to complete after an online transaction duplicates almost entirely the information required by DPS' online change-of-address form and combined change-of-address and renewal form.<sup>68</sup> “Indeed, it is the same form that prospective voters would use if they had not submitted an online change-of-address form at all, and merely applied to the Secretary of State for voter

<sup>64</sup> 52 U.S.C. § 20504(d); Dkt. 52 at 11.

<sup>65</sup> *Id.* at 14.

<sup>66</sup> *Id.*

<sup>67</sup> 52 U.S.C. § 20504(c)(2); Dkt. 52 at 12.

<sup>68</sup> Dkt. 52 at 12.

registration in person or by mail in the first instance.”<sup>69</sup> To comply with the NVRA, then, Defendants must allow customers who complete online change-of-address and license renewal forms to apply to register to vote as part of the *same application*.<sup>70</sup>

**5. Defendants’ failure to transmit voter registration information submitted during online driver’s license transactions violates 52 U.S.C. § 20504(e).**

The NVRA mandates that states transmit completed voter-registration portions of driver’s license applications “to the appropriate State election official not later than 10 days after the date of acceptance[.]” or, if the application is completed within 5 days before the last day of a registration period, “not later than 5 days after the date of acceptance.”<sup>71</sup> It is undisputed that DPS does not even *record*—and therefore cannot *transmit*—applicants’ responses to the voter registration question on the online driver’s license renewal and change-of-address application. Further, despite collecting from each online customer the personal information necessary for voter registration, DPS does not transmit this information to SOS for those customers who wish to register or update their voter registration. Defendants’ failure to do so violates the clear mandate of the NVRA.

**6. SOS’s failure to ensure that eligible applicants are registered to vote upon completion of the voter registration portion of online driver’s license change-of-address and renewal applications violates 52 U.S.C. § 20507(a)(1)(A).**

Being responsible for Texas’s compliance with the NVRA, SOS must ensure that eligible applicants are registered to vote in an election “if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election.”<sup>72</sup> As set out above and in this Court’s previous ruling, under the NVRA, online driver license renewal and change-of-address forms are valid voter registration applications. Thus, individuals who indicate that

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<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> 52 U.S.C. §§ 20504(e)(1)-(2).

<sup>72</sup> 52 U.S.C. § 20507(a)(1)(A).

they want to register to vote during an online driver's license transaction should be registered to vote.

It is undisputed that Texas does not, in fact, register eligible customers who indicate they wish to register to vote or update their voter registration during an online driver's license renewal or change-of-address transaction. SOS's failure to ensure that Texas does so constitutes a plain violation of the NVRA.

**B. Texas' failure to treat online DPS transactions as voter registration applications violates the Equal Protection Clause**

***1. The Equal Protection Clause protects against restrictions that place unreasonable burdens on the right to vote.***

The right to vote is a fundamental right protected under the Equal Protection Clause of the Fourteenth Amendment. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 670 (1966). "The right to vote is protected in more than the initial allocation of the franchise. Equal protection applies as well to the manner of its exercise." *Bush v. Gore*, 531 U.S. 98, 104 (2000). Specifically, the "Equal Protection Clause applies when a state either classifies voters in disparate ways... or places restrictions on the right to vote." *Obama for Am. v. Husted*, 697 F.3d 423, 428 (6th Cir. 2012). When assessing an Equal Protection Clause challenge to a state restriction on the right to vote, courts use the standard laid out in *Anderson v. Celebrezze*, 460 U.S. 780 (1983) and *Burdick v. Takushi*, 504 U.S. 428, 434 (1992). Under the *Anderson-Burdick* standard, a court

must weigh "the character and magnitude of the asserted injury to the rights protected by the First and Fourteenth Amendments that the plaintiff seeks to vindicate" against "the precise interests put forward by the [s]tate as justifications for the burden imposed by its rule," taking into consideration "the extent to which those interests make it necessary to burden the plaintiff's rights."

*Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789).

In *Crawford v. Marion County Election Bd.*, the Supreme Court, applying the *Anderson-Burdick* standard, noted that "rather than applying any 'litmus test' that would neatly separate



valid from invalid restrictions, ...a court must identify and evaluate the interests put forward by the State as justifications for the burden imposed by its rule, and then make the ‘hard judgment’ that our adversary system demands.” 553 U.S. 181, 190 (2008). The Court further explained that, however slight a burden a state restriction on an individual voter may appear, “it must be justified by relevant and legitimate state interests ‘sufficiently weighty to justify the limitation.’” *Crawford*, 553 U.S. at 191 (citing *Norman v. Reed*, 502 U.S. 279, 288–89 (1992)). A sufficiently weighty justification is the difference between a reasonable and an unreasonable restriction. *Crawford* at 190 (citing *Burdick*, 504 U.S. at 434).

Defendants fail to provide any rational reason—much less a “sufficiently weighty” justification—for the burden they impose on the right to vote in Texas. Therefore, Defendants’ treatment of online DPS transactions violates the Equal Protection Clause.

***2. Defendants’ refusal to treat online driver’s license transactions as voter registration applications unduly burdens Plaintiffs’ right to vote.***

Plaintiffs are eligible Texas voters who changed their driver’s license address online, and those online transactions were not used to register Plaintiffs to vote. There is no dispute that Texas treats some driver’s license applications as applications to register to vote, and also *does not* treat other driver’s license applications (online) as applications to register to vote. And there is no dispute that Texas refuses to provide a simultaneous voter registration application for people who are similarly situated to in-person or mail-in applicants in every way but one—they completed their transactions online.

Instead of using the information customers already provide to DPS to register them to vote or update their voter registration information, Texas burdens customers who transact with DPS online with a requirement that they retrieve, complete, print, and mail an entirely separate voter registration form in order to register or update their voter registration information. This burden is borne by online customers; DPS customers who apply for or change their license

information in person, or change their address by mail, are not required to complete a separate, additional voter registration application in order to register or update their voter registration information. This burden is a restriction on the fundamental right to vote that warrants “the demonstration of a corresponding interest sufficiently weighty to justify the limitation.” Defendants have no such justification.

**3. *Defendants’ asserted interest in requiring handwritten signatures is insufficient to justify the burdens created by their treatment of online DPS transactions.***

Defendants’ only justification for this burden is that DPS’s online customers cannot sign the online driver’s license form, and they claim that such a handwritten signature is necessary to “later check that signature against the poll book.”<sup>73</sup> The record, however, demonstrates that the state *does not even use* handwritten signatures for voter registration or voter verification purposes. Instead, DPS collects and SOS and counties use *electronic signatures* of voters. Indeed, even though a DPS customer who indicates he wishes to register to vote on a mail-in change-of-address form provides DPS with a handwritten signature on that mail-in form, the signature DPS sends to SOS for voter registration purposes—and the signature SOS transmits to county election officials for voter registration—is the *previously-provided electronic signature* collected during the customer’s most recent in-person transaction.

Although the state has an interest in verifying voter identity *at the polls*, this interest has nothing to do with the handwritten signatures collected by DPS during driver’s license transactions, since the state only collects uses *electronic* signatures on DPS customers’ voter registration applications. This interest is therefore irrelevant to and insufficient to justify Defendants restriction on Plaintiffs registering to vote during an online driver’s license transaction.

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<sup>73</sup> Defs. Reply in Supp. of Mot. to Dismiss, Dkt. 12 pp 2-3.

Defendants also claim that they treat everyone equally because the signature requirement applies to everyone, and that everyone who fails to sign a change-of-address or renewal application is not registered to vote. Defendants fundamentally misunderstand the Equal Protection Clause’s application to state-imposed burdens on the right to vote. *Crawford*, 553 U.S. at 190, 191. The Equal Protection Clause requires states to justify the burden they impose on the right to vote. *Burdick*, 504 U.S. at 434 (quoting *Anderson*, 460 U.S. at 789). Defendants’ handwritten signature argument is insufficient to justify the burden that the state applies to online DPS customers.

**4. *DPS’s signature requirement as to online transactions is unreasonable.***

As pointed out by the Court, Defendants have not explained, and cannot explain, how the handwritten signature requirement is necessary.<sup>74</sup> As the Court observed, because DPS collects electronic signatures during every in-person driver’s license transaction—including customers’ first applications for a Texas driver’s license—DPS already has a signature on file for every person who subsequently renews or changes their driver’s license address.<sup>75</sup> Indeed, Defendants admitted that the handwritten signature on DPS forms is scanned and stored in a third-party vendor’s system for identity-verification use only when fraud is suspected. For DPS purposes and voter registration purposes, Defendants simply use and store the signature that was electronically captured in the most recent previous in-person transaction. Defendants cannot show why handwritten signatures are necessary to confirm voter identity at the polls when collected, stored, and easily-accessible electronically-captured signatures do the same thing just as well, if not more efficiently, and when Texas already uses these electronic signature for this purpose for in-person and mail-in DPS applications. *Anderson*, 460 U.S. at 806 (quoting *Kusper v. Pontikes*, 414 U.S. 51, 59 (1973) (“If the [s]tate has open to it a less drastic way of satisfying

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<sup>74</sup> Dkt. 52 at 21.

<sup>75</sup> *Id.* at 17, 21.

its legitimate interests, it may not choose a legislative scheme that broadly stifles the exercise of fundamental personal liberties.”); *Northeast Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612, 633 (6th Cir. 2016), (cert. denied, 2017 WL 881266 (U.S. June 19, 2017) (restriction purportedly imposed to combat voter fraud was unjustified, in part, because the state already had a policy in place that sufficiently protected against voter fraud).

Moreover, as set out above, DPS’s online system utilizes a four-point data verification process, which, as the Court points out, allows an online customer to verify his identity at login, instead of using a handwritten signature.<sup>76</sup> This verification process ensures that the individual transacting online is the person who previously provided an electronic signature during his last in-person transaction with DPS, and would likewise ensure that the electronic signature used for voter registration and voter verification belongs to the proper individual. With no sufficient justification for the state’s restrictions on online transactions, the burden on Plaintiffs’ right to vote is unreasonable.

### **C. Defendants’ Affirmative Defenses are Not Supported by Evidence**

Defendants assert the following affirmative defenses: (1) failure to state a claim upon which relief can be granted, (2) Eleventh Amendment immunity and sovereign immunity, (3) statute of limitations, (4) all actions by Defendants relevant to the claims and causes of action by Plaintiffs were done in good faith and without malice, willfulness, or intent, (5) lack of standing and failure to demonstrate injury-in-fact, causation, or redressability necessary to establish standing, (6) Plaintiffs have not exhausted administrative requirements for filing suit, (7) failure to satisfy the conditions precedent required to invoke the Court’s jurisdiction over their claims, including the pre-suit notice requirements of the NVRA, 52 U.S.C. § 20510(b)(1)-(2), (8)

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<sup>76</sup> *Id.* at 18. Confusingly, the SOS allows voters to change their voter registration address online without a signature if they have moved within a county. The state only requires a signature when a voter moves from one county to another. Appx. 97 (Ex. 13, SOS’s Suppl. Resps. to Stringer’s First RFAs, No. 10).

misrepresentation, (9) Plaintiffs' claims are moot, (10) the Court lacks jurisdiction, and (11) Defendants' actions were reasonable and proper under the laws of the United States and the State of Texas. Defendants have put forth no evidence to support their affirmative defenses. In fact, some of the listed defenses bear no logical explanation for pleading (e.g., statute of limitations). Further, some of the claimed defenses were summarily rejected by this Court in its ruling on the Motion to Dismiss: the state's standing arguments,<sup>77</sup> the state's arguments regarding the NVRA's notice requirement,<sup>78</sup> and the state's "failure to state a claim" arguments.<sup>79</sup>

**D. Defendants should be required to correct their violations of the NVRA within three months of the Court's ruling.**

The next federal voter registration deadline is February 5, 2018, in advance of the March primary elections—just over seven months from the date of this filing. For far too long, Defendants have defied the NVRA and denied millions of Texas the right to register or update their voter registration through an online transaction with DPS. Plaintiffs, and eligible Texas voters who are similarly situated, are entitled to immediate relief, before the start of another federal election cycle. Accordingly, the Court should require Defendants to update their systems to allow for compliance with the NVRA as to online driver's license transactions immediately, with full implementation within three months after the Court's ruling and no later than January 1, 2018.

Moreover, the public interest is served by requiring Defendants to immediately implement this plan. Namely, the almost 1.5 million customers who transact online with DPS each year will be irreparably injured if Defendants continue to defy federal law and the United States Constitution. The requested relief is the only way to correct Defendants' continued

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<sup>77</sup> Dkt. 52 at 3-7.

<sup>78</sup> *Id.* at 7-9.

<sup>79</sup> *Id.* at 9-21.



violations of the NVRA and Equal Protection Clause with regard to these transactions. Monitoring to ensure compliance will be necessary.

### CONCLUSION

Plaintiffs respectfully request for the Court to enter an order:

1. Declaring, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA and the Equal Protection Clause by failing to provide for simultaneous voter registration application with online driver's license renewal;
2. Declaring, pursuant to 28 U.S.C. § 2201 and 52 U.S.C. § 20510(b)(2), that Defendants have violated the NVRA and the Equal Protection Clause by failing to provide for simultaneous voter registration application with online change-of-address forms;
3. Permanently enjoining Defendants, their agents and successors in office, and all customers working in concert with them, from implementing practices and procedures that likewise violate the NVRA;
4. Directing Defendants, under a plan with appropriate reporting and monitoring requirements, to take all appropriate measures necessary to remedy the harm caused by their noncompliance, including, but not limited to providing for the electronic transfer of voter registration information collected and confirmed through online transactions to the Secretary of State within three months of the Court's order and no later than January 1, 2018.

Dated: June 30, 2017.

Respectfully submitted,

By: /s/ Rebecca Harrison Stevens

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***ATTORNEYS FOR PLAINTIFFS***

**CERTIFICATE OF SERVICE**

I hereby certify that on the 30th day of June, 2017, a true and correct copy of the foregoing *Plaintiffs' Motion for Summary Judgment* was served upon counsel of record via the Court's ECF system.

/s/ Rebecca Harrison Stevens

# Exhibit G

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, *et al.*,

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as the  
Texas Secretary of State; STEVEN C. MCCRAW,  
in his official capacity as the Director of the Texas  
Department of Public Safety;

Defendants.

Civ. Action Case No. 5:16-cv-0046-  
OLG

**DECLARATION OF GLEN MAXEY IN SUPPORT OF IN SUPPORT OF  
INTERVENOR-PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO  
DISMISS**

Pursuant to 280 U.S.C. § 1746, I, Glen Maxey, hereby declare as follows:

1. I am over 18 years of age, am competent to testify, and declare the following facts based on my own personal knowledge. I am currently employed by the Texas Democratic Party (“TDP”) as the Primary Director.

2. The TDP is the statewide organization representing Democratic candidates and voters throughout the State of Texas within the meaning of Section 117 of Texas’s Election Code and all other applicable provisions of the election laws.

3. The TDP’s purpose is to elect Democratic Party candidates to public office throughout Texas. To accomplish its purpose, the TDP engages in vitally important activities, including supporting Democratic Party candidates in national, state, and local elections through fundraising and, organizing, and voter registration efforts; protecting the legal rights of voters; and ensuring that all voters have a meaningful ability to cast ballots in Texas. The TDP works closely with Democratic candidates, providing get-out-the-vote (“GOTV”) assistance, and actively



supporting the development of programs benefiting Democratic Party candidates in Texas, including by running what is often referred to as the “coordinated campaign” to boost turnout for voters to support candidates from the top of the ticket, all the way down the Democratic ticket.

4. The TDP has a State Executive Committee of five party officers (Chair, Vice Chair, Vice Chair for Finance, Secretary, and Treasurer), 62 district representatives, 26 representatives of 13 constituency organizations (Texas House Caucus, Texas Senate Caucus, Texas Democratic Veterans, Texas Democratic Women, Texas Asian American Democrats, Hispanic Caucus, Coalition of Black Democrats, Texas Democratic Women, Texas Environmental Democrats, Texas Young Democrats, Texas Democratic County Chairs Association, Democrats with Disabilities, and the Non-Urban and Rural Caucus), and 18 *ex officio* members who represent Texas on the Democratic National Committee. The Party leadership is elected at a biennial state convention by over 10,000 democratically selected delegates who meet in a state convention every even-numbered year.

5. The TDP is composed of county party organizations representing each of the 254 counties of Texas. The county party organizations are governed by an elected county chair and county executive committees composed of precinct-level chairs from each voting precinct in Texas.

6. These county party organizations hold Democratic primary elections in March of even-numbered years to elect Democratic nominees for offices including nominees for U.S. Senate and U.S. House of Representatives, statewide officials (Governor, Lieutenant Governor, Comptroller of Public Account, Attorney General, Land Commissioner, three Railroad Commissioners, and 15 members of the State Board of Education), 31 State Senators and 150 State Representatives, county officials (County Judge, four County Commissioners per county, County

Clerks, District Attorneys, and Tax Assessor/Collectors), and judicial nominees (nine statewide Supreme Court Justices, nine Court of Criminal Appeals judges, 14 Court of Appeals benches of various members, and hundreds of District Judges County Court at Law Judges, Justices of the Peace, and Constables).

7. I have worked for the TDP as a senior advisor to Chairman Gilberto Hinojosa since 2013. Prior to 2013, I served as an employee of the TDP during coordinated campaigns going back to 1982. I was an elected member of the Texas House of Representatives from 1991 to 2002, serving for six terms. I was an unsuccessful candidate for Travis County Tax Assessor Collector in the 2008 Democratic Primary. Since 1970, I have worked as a volunteer, campaign staffer or manager, and party coordinated campaign chair or staff in over 150 campaigns at all levels, from local races to presidential campaigns, all in Texas. I have served as the Legislative Director of the TDP for the past four legislative sessions, specifically drafting and lobbying for passage of several hundred election code bills. My duties in these positions have required me to become knowledgeable about political strategy related to local, state, and federal elections in Texas.

8. Millions of voters participate in our Democratic primary elections and support our Democratic nominees in general elections. Tens of thousands of individual donors support the TDP and our county-level Democratic Party organizations. Under Texas law, a voter who participates in the TDP's March primary affiliates with the Party and is defined as a member of the Party for the voting year. Therefore, the TDP's membership includes millions of Texans each election cycle.

9. I personally interacted with at least one Democratic voter during the 2018 election cycle who had difficulty registering to vote due to Defendants' refusal to allow simultaneous voter registration for individuals who update driver's license information online. The TDP also receives

reports through our voter hotline and from county clerks and election officials of Democratic voters who believe they have registered to vote or updated their voter registration when changing their address online with DPS, who turns out were not in fact get registered due to Defendants' actions.

10. The TDP's millions of members and constituents from across Texas include millions of Texans who affiliate with the Texas Democratic Party by voting in the biennial Democratic Primary, millions of Texans who are drivers who interact with DPS, and many other Texans who regularly support and vote for candidates affiliated with the Democratic Party.

11. The TDP has historically raised and spent hundreds of thousands of dollars, if not millions of dollars, to further its mission in Texas. In 2014, the TDP raised and spent \$1,999,198.27. In 2015, the TDP raised and spent \$226,399.28. In 2016, the TDP raised and spent \$642,522.29. In 2017, the TDP raised and spent 72,494.90. These funds were spent to further efforts to elect democratic candidates to offices throughout Texas.

12. Defendants' conduct directly harms the TDP by imposing burdens and costs that limit the effectiveness of its voter registration program and make it more difficult for the TDP to reach its registration goals and accomplish its mission of electing Democrats in Texas. As a result, the TDP must divert resources to ensuring that eligible voters who may think they are registered due to their interactions with DPS, or who are discouraged from registering, will, in fact, register to vote for the upcoming elections. For example, eligible voters, including Mr. Stringer, often update their addresses, or renew or replace their driver's licenses, through DPS's online portal and believe that DPS is simultaneously transmitting that personal information to the Texas Secretary of State for purposes of voter registration. But the TDP understands that personal information has *not* been simultaneously transmitted to the Texas Secretary of State, and now the TDP must divert

its resources to ensuring that eligible voters are aware of the additional steps they must take to register and must ensure that eligible voters are actually registered to vote.

13. When the TDP diverts resources, it is diverting funds, personnel, and time away from other critical activities in Texas and to the issue of online registration. Specifically, the TDP must reallocate more money, restructure personnel and volunteers, and divert the time of employees and volunteers to voter education and voter registration efforts specifically tied to the issue in this case. But the TDP has finite resources, so the resources diverted to the issue in this case are taken from other activities, such as general GOTV activities and general activities related to educating voters about registration, candidates, and Texas-specific issues.

14. The TDP's registration-focused efforts for 2020 are more robust than any previous efforts—in fact, this is the largest voter registration program in the history of Texas, *see* Exhibit 1—because the TDP has come to understand that Texas's voter registration laws have caused confusion and potential disenfranchisement, especially among Democratic voters. Because of Defendants' actions, the TDP must engage in far greater efforts and spend far more time to ensure that eligible voters understand how to properly register to vote and to ensure that eligible voters become registered to vote. As a result, the TDP has had to divert resources from other mission-critical efforts in order to fund a robust voter registration program. For example, as part of its vigorous registration program, the TDP will put 1,000 field staff and canvassers across the State, mail unregistered eligible voters a voter registration card, chase voter registration forms sent to eligible voters, and work alongside other Democratic organizations to ensure largescale voter registration.

15. The TDP also recently launched a website, [www.registertexas.com](http://www.registertexas.com), which is an online system that allows voters to fill out their voter registration information, including their name

and address. Once voters submit this information, RegisterTexas.com will then mail them a pre-populated voter registration application with the information they have provided and also will include a postage-paid envelope addressed to their county elections office. RegisterTexas.com represents a significant investment of resources for the TDP, and one that would likely be unnecessary if Defendants were complying with federal law.

16. In preparation for the 2020 elections, the TDP has invested significant resources in voter engagement efforts with the goal of registering approximately 2,600,000 unregistered, eligible, Democratic voters. In support of this mission, the TDP initiated a comprehensive organizing campaign that includes sending voter registration forms to new and unregistered Texas residents, following up with residents to encourage the completion and submission of voter registration forms, and partnering with organizations involved in high school and college campus organizing.

17. In addition, the TDP participates in a “coordinated campaign,” in which it works collaboratively with the national Democratic committees, specifically the DSCC and the DCCC, to elect Democrats up and down the ticket within the state. The national parties transfer thousands if not hundreds of thousands of dollars to the TDP in association with this campaign, and those funds are used for a variety of programs, including voter registration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 13, 2020.

DocuSigned by:  
  
 8346BE27DAF3433...  
 \_\_\_\_\_  
 Glen Maxey  
 Primary Director  
 Texas Democratic Party



# Exhibit A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, *et al.*,

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as the  
Texas Secretary of State; STEVEN C. MCCRAW,  
in his official capacity as the Director of the Texas  
Department of Public Safety;

Defendants.

Civil Action

Case No. 5:16-cv-00257-OLG

**DECLARATION OF GLEN MAXEY IN SUPPORT OF TEXAS DEMOCRATIC  
PARTY, DSCC, AND DCCC's MOTION FOR SUMMARY JUDGMENT**

Pursuant to 280 U.S.C. § 1746, I, Glen Maxey, hereby declare as follows:

1. I am over 18 years of age, am competent to testify, and declare the following facts based on my own personal knowledge. I am currently employed by the Texas Democratic Party ("TDP") as the Primary Director.

2. The TDP is the statewide organization representing Democratic candidates and voters throughout the State of Texas within the meaning of Section 117 of Texas's Election Code and all other applicable provisions of the election laws.

3. The TDP's purpose is to elect Democratic Party candidates to public office throughout Texas. To accomplish its purpose, the TDP engages in vitally important activities, including supporting Democratic Party candidates in national, state, and local elections through fundraising and, organizing, and voter registration efforts; protecting the legal rights of voters; and ensuring that all voters have a meaningful ability to cast ballots in Texas. The TDP works closely with Democratic candidates, providing get-out-the-vote assistance, and actively supporting the

development of programs benefiting Democratic Party candidates in Texas, including by running what is often referred to as the “coordinated campaign” to boost turnout for voters to support candidates from the top of the ticket, all the way down the Democratic ticket.

4. The TDP has a State Executive Committee of five party officers (Chair, Vice Chair, Vice Chair for Finance, Secretary, and Treasurer), 62 district representatives, 26 representatives of 13 constituency organizations (Texas House Caucus, Texas Senate Caucus, Texas Democratic Veterans, Texas Democratic Women, Texas Asian American Democrats, Hispanic Caucus, Coalition of Black Democrats, Texas Democratic Women, Texas Environmental Democrats, Texas Young Democrats, Texas Democratic County Chairs Association, Democrats with Disabilities, and the Non-Urban and Rural Caucus), and 18 *ex officio* members who represent Texas on the Democratic National Committee. The Party leadership is elected at a biennial state convention by over 10,000 democratically selected delegates who meet in a state convention every even-numbered year.

5. The TDP is composed of county party organizations representing each of the 254 counties of Texas. The county party organizations are governed by an elected county chair and county executive committees composed of precinct-level chairs from each voting precinct in Texas.

6. These county party organizations hold Democratic primary elections in March of even-numbered years to elect Democratic nominees for offices including nominees for U.S. Senate and U.S. House of Representatives, statewide officials (Governor, Lieutenant Governor, Comptroller of Public Account, Attorney General, Land Commissioner, three Railroad Commissioners, and 15 members of the State Board of Education), 31 State Senators and 150 State Representatives, county officials (County Judge, four County Commissioners per county, County

Clerks, District Attorneys, and Tax Assessor/Collectors), and judicial nominees (nine statewide Supreme Court Justices, nine Court of Criminal Appeals judges, 14 Court of Appeals benches of various members, and hundreds of District Judges County Court at Law Judges, Justices of the Peace, and Constables).

7. I have worked for the TDP as a senior advisor to Chairman Gilberto Hinojosa since 2013. Prior to 2013, I served as an employee of the TDP during coordinated campaigns going back to 1982. I was an elected member of the Texas House of Representatives from 1991 to 2002, serving for six terms. I was an unsuccessful candidate for Travis County Tax Assessor Collector in the 2008 Democratic Primary. Since 1970, I have worked as a volunteer, campaign staffer or manager, and party coordinated campaign chair or staff in over 150 campaigns at all levels, from local races to presidential campaigns, all in Texas. I have served as the Legislative Director of the TDP for the past four legislative sessions, specifically drafting and lobbying for passage of several hundred election code bills. My duties in these positions have required me to become knowledgeable about political strategy related to local, state, and federal elections in Texas.

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9. The TDP's millions of members and constituents from across Texas include millions of Texans who affiliate with the Texas Democratic Party by voting in the biennial

Democratic Primary, millions of Texans who are drivers who interact with DPS, and many other Texans who regularly support and vote for candidates affiliated with the Democratic Party.

10. In preparation for the 2020 elections, the TDP has invested significant resources in voter engagement efforts with the goal of registering approximately 2,600,000 unregistered, eligible, Democratic voters. In support of this mission, the TDP initiated a comprehensive organizing campaign that includes sending voter registration forms to new and unregistered Texas residents, following up with residents to encourage the completion and submission of voter registration forms, and partnering with organizations involved in high school and college campus organizing.

11. The TDP's registration-focused efforts for 2020 are more robust than any previous efforts—in fact, this is the largest voter registration program in the history of Texas, *see* Exhibit 1—because the TDP has come to understand that Texas's voter registration laws have caused confusion and potential disenfranchisement, especially among Democratic voters. Because of Defendants' actions, the TDP must engage in far greater efforts and spend far more time to ensure that eligible voters understand how to properly register to vote and to ensure that eligible voters become registered to vote. As a result, the TDP has had to divert resources from other mission-critical efforts in order to fund a robust voter registration program. For example, as part of its vigorous registration program, the TDP will put 1000 field staff and canvassers across the State, mail unregistered eligible voters a voter registration card, chase voter registration forms sent to eligible voters, and work alongside other Democratic organizations to ensure largescale voter registration.

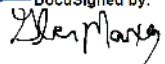
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reach its registration goals and accomplish its mission of electing Democrats in Texas. As a result, the TDP must divert resources to ensuring that eligible voters who may think they are registered due to their interactions with DPS, or who are discouraged from registering, will register to vote for the upcoming elections. For example, eligible voters, including Mr. Stringer, often update their addresses, or renew or replace their driver's licenses, through DPS's online portal and believe that DPS is simultaneously transmitting that personal information to the Texas Secretary of State for purposes of voter registration. But the TDP understands that personal information has *not* been simultaneously transmitted to the Texas Secretary of State, and now the TDP must divert its resources to ensuring that eligible voters are aware of the additional steps they must take to register and must ensure that eligible voters are actually registered to vote.

13. Defendants' continued violations injure the TDP not only through increased cost in registration efforts, but also because they hamper the TDP's efforts to elect Democrats throughout Texas. Indeed, fewer registered voters means fewer voters who can vote to support Democratic candidates for offices across Texas. By refusing to comply with federal law, Defendants harm the Democratic Party's election prospects, which frustrates the TDP's central mission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 26, 2020.

DocuSigned by:  
  
 /s/ \_\_\_\_\_  
 8348BE27DAF3433...  
 Glen Maxey  
 Primary Director  
 Texas Democratic Party



# Exhibit 1 to Massey Declaration

## For just \$1, you could sponsor 2 voter registration cards for unregistered, likely Democratic voters.

Texas Democrats have launched the most expansive voter registration program ever. Let's register more Democrats to vote.

\$25
\$50
\$100
\$250
\$500
...or chip in another amount

\*If you've saved your information with ActBlue Express, your donation will go through immediately.

**TEXAS**  **DEMOCRATS**

[En español](#)

JANUARY 13, 2020 / **MEDIA PRESS**

## RELEASE: Texas Democratic Party Announce Largest Voter Registration Program in Texas History

Austin, TX — Today, the Texas Democratic Party announced its innovative 2020 voter registration program — the largest in Texas history.

*To read about the new, expansive program, [click here](#).*

For our voter registration program, the Texas Democratic Party plans to put 1000 field staff and canvassers on the ground across the state, mail Texans who need to get registered a voter registration card, proactively chase voter registration forms sent to Texans, working alongside fellow Democratic organizations to ensure these young voters are pinpointed for voter registration and mobilization, and foster a culture of registration. The Texas Democratic Party has also launched a year-long voter protection hotline where voters can get the information they need to register to vote and cast their ballot.

### More highlights from the programs include:

- We are going to have 1,000 field organizers and canvassers on the ground in 2020.
- The Texas Democratic Party is gearing up to mail hundreds of thousands of voter registration applications to unregistered voters across the state.
- We're launching a year-round voter assistance hotline.

SHARE   

- We are building machine-learning-based models to quickly identify the partisanship-leaning of new and low propensity voters so that campaigns can mobilize Democratic voters.
- We are hiring dedicated staff to engage every part of our Democratic coalition — including our AAPI, African-American, Latinx, LGBTQ+, youth, and Disability communities — and to narrow the gap in rural committees.
- The Texas Democratic Party is working alongside fellow Democratic organizations to ensure these young voters are pinpointed for voter registration and mobilization.

### By the numbers:

- We anticipate the voter rolls will swell to upwards of 18,000,000 registered voters in 2020.
- The Texas Democratic Party is focused on registering the estimated 2,600,000 Texans who are likely to vote Democratic if they register to vote.
- At the congressional level, we estimate there are 495,000 potential new Democrats in the eight DCCC-targeted districts.
- We estimate 210,000 potential new Democrats in the 12 state house districts that flipped in 2018. Additionally, there are 315,000 potential new Democrats in 18 targeted State House districts for 2020.

### Texas Democratic Party Deputy Executive Director Cliff Walker issued the following statement:

“Texas is the biggest battleground state in the country. We know that our democracy works better when more people vote, not less. The rapidly emerging Democratic coalition in Texas has set the stage for historic Democratic gains at the ballot box. That’s why the Texas Democratic Party is proud to be launching our most expansive voter registration program yet.

“We are committing our resources to register and engage a new electorate that is more progressive and represents the diversity of our great state. Shifting the electorate in Texas is our top priority. We will win the White House, take out John Cornyn, send more Texas Democrats to Congress, break the supermajority in the Texas Senate, flip the Texas House, and elect hundreds of local Democrats across the state.”

*For more reading, check out ABC’s exclusive story here.*

###



[◀ Back to news](#)

[◀ Previous Post](#)

**RELEASE: Trump and Cornyn  
Continue to Lie About Protecting  
Pre-Existing Conditions**

# Exhibit H

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JARROD STRINGER, et al.

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as Texas  
Secretary of State and STEVEN C. MCCRAW, in  
his official capacity as Director of the Texas  
Department of Public Safety

Defendants.

Civil Action Case No. 5:20-cv-00046-  
OLG

**DECLARATION OF ALEXANDER EDELMAN IN SUPPORT OF PLAINTIFFS’  
MOTION FOR A PRELIMINARY INJUNCTION**

Pursuant to 20 U.S.C. § 1746 I, Alexander Edelman, testify that:

1. I am over the age of 18, have personal knowledge of the facts below, and can competently testify to their truth.
2. I currently serve as the National Field Director for DCCC, also known as the Democratic Congressional Campaign Committee. I have held this position since February 2019.
3. The mission of DCCC is to elect Democratic candidates to the U.S. House of Representatives. DCCC works to accomplish this mission by, among other things, funding voter registration drives to register new voters who may support and vote for Democratic candidates across the country.
4. For the 2020 election cycle, DCCC has identified at least eight congressional districts in Texas (Congressional Districts 2, 7, 10, 21, 22, 23, 24, 31, and 32) as targeted races, in which it will expend resources to support the Democratic candidate
5. As the National Field Director, I am responsible for the planning and execution of DCCC’s National Field Program, which includes the supervision of field staff in congressional

districts where DCCC is actively working to elect Democratic candidates to the U.S. House of Representatives. DCCC plans to spend even more on voter activities in Texas for the 2020 election, including on GOTV, voter education, and voter registration.

6. DCCC has already invested hundreds of thousands of dollars dedicated to specifically registering voters in Texas. DCCC recently spent nearly \$400,000 to compensate a consultant, Sisneros Strategies, for providing voter registration services in Texas Congressional District 23. This is a specific example of one of many voter registration expenditures DCCC expects to incur to register voters in Texas for the 2020 election.

7. DCCC plans to ultimately invest millions of dollars into registering and mobilizing voters in Texas in advance of the 2020 election. DCCC uses voter registration not only to expand the pool of individuals who are eligible to vote for Democratic candidates, but also to have important conversations with people about the importance of voting and about important causes to the Democratic Party.

8. DCCC supports and participates in what is commonly referred to as the “coordinated campaign,” in which it works collaboratively with the state party committee and other national Democratic committees to elect Democrats up and down the ticket within the state. In advance of the 2020 general election, DCCC intends to give significant sums to the Texas Democratic Party to spend on its field program, which will necessarily involve, among many things, voter registration efforts, to help elect Democratic candidates from Texas to national office. DCCC has already transferred over \$145,000 to the Texas Democratic Party this election cycle to support its registration efforts.

9. In fact, the Texas Democratic Party recently announced plans to launch the largest voter registration effort in the state’s history. *See* Exhibit A. DCCC plans to actively support this effort financially and with staffing resources.

10. Defendants’ continued refusal to follow federal and constitutional law by not allowing for automatic voter registration with online transactions makes DCCC’s work in Texas significantly more costly. DCCC is aware of Defendants’ continued violations and believes it must



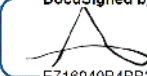
register and turn out additional voters to account for voters who mistakenly believe they have updated their registration and as a result are unable to vote, as happened to the original plaintiffs in this action.

11. In particular, Defendants' conduct forces DCCC to spend additional resources in Texas on get out the vote ("GOTV") and voter persuasion efforts, diverting those funds from other mission-critical efforts nationwide. DCCC has concentrated its limited resources on efforts in various battleground states, with remaining resources going toward non-battleground states. But now, DCCC must divert resources—including funds, personnel, and time—from GOTV, voter education, and voter registration efforts in other states, including important battleground states, to compensate for the issues caused by Defendants' conduct.

12. Not only is DCCC diverting resources—including funds, personnel, and time—from its activities in other states, but it is forced to divert resources within Texas. For example, DCCC may have to divert resources from directly making contributions to campaigns in Texas to funding voter education and registration efforts in order to combat the effects of Texas' refusal to offer simultaneous voter registration to individuals who update their driver's license information online.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2020.

DocuSigned by:  
  
E718049B4BB34AF...  
Alexander Edelman  
National Field Director  
DCCC

# Exhibit I

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as Texas  
Secretary of State and STEVEN C. MCCRAW, in  
his official capacity as Director of the Texas  
Department of Public Safety

Defendants.

Civil Action Case No. 5:20-cv-00046-  
OLG

**DECLARATION OF SARA SCHAUMBURG IN SUPPORT OF INTERVENOR-  
PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS**

Pursuant to 28 U.S.C. § 1746, I, Sara Schaumburg, testify that:

1. I am over the age of 18, am competent to testify, and declare the following facts based on my own personal knowledge.
2. I am currently employed as the Director of Voter Protection & Deputy Policy Director by the DSCC.
3. As the national senatorial committee of the Democratic Party, DSCC has a vested interest in the registration of voters who can cast ballots to support Democratic candidates for U.S. Senate.
4. In 2018, DSCC made contributions and expenditures in the tens of millions of dollars to persuade and mobilize voters to support Democratic Senate candidates. DSCC expects to invest millions in support of MJ Hegar in her campaign against Republican Senator John Cornyn through contributions to her campaign and to the Texas Democratic Party ("TDP"). To date, the DSCC has already spent at least \$180,445.17 this year on efforts to elect Democratic candidates in Texas.

5. Defendants' conduct forces DSCC to provide additional resources in Texas to be spent on get out the vote ("GOTV") and voter persuasion efforts, diverting those funds from other mission-critical efforts nationwide. DSCC has concentrated its limited resources on efforts in various battleground states. But now, DSCC must divert resources—including funds, personnel, and time—from efforts in other key battleground states to address the issues arising in this case, specifically to address the numerous burdens which Defendant Hughs places on voters wishing to register online in the state, and to attempt to get additional voters to turn out to compensate for the effects of these burdens. Among other burdens, these include both the issues detailed in this case as well as those which form the basis of the complaint in *Texas Democratic Party v. Hughs*, No. 20-cv-00008 (W.D. Tex. 2020).

6. DSCC also anticipates transferring more money to the Texas Democratic Party ("TDP") to support the coordinated campaign, which is a program by which the DSCC works collaboratively with the state party committee and other national Democratic party committees to elect Democrats up and down the ticket within the state. In advance of the 2020 election, DSCC intends to transfer more funds than it previously planned to transfer to the TDP to spend on its field program in light of Defendants' illegal conduct. The field program will necessarily involve, among many things, voter registration efforts to help elect Democratic candidates from Texas to national office. Thus far this election cycle, DSCC has transferred \$25,000 to the TDP.

7. Defendants' conduct directly harms DSCC by frustrating its mission of, and efforts in, electing the Democratic Party candidate to the U.S. Senate by forcing DSCC to divert additional funds and resources to Texas to ensure that eligible citizens are not misled into believing that they have effectively registered to vote, and are in fact registered to vote and cast a ballot.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 14, 2020.

DocuSigned by:  
  
 37D0F3D6FE63468...  
 Sara Schaumburg  
 Director of Voter Protection & Deputy Policy  
 Director, DSCC

# Exhibit J

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,	*	
Plaintiffs,	*	
	*	
v.	*	No. SA-20-CV-46-OG
	*	
RUTH R. HUGHS, et al.,	*	
Defendants.	*	

VIDEOCONFERENCED DEPOSITION OF  
THE CORPORATE REPRESENTATIVE OF  
THE TEXAS DEMOCRATIC PARTY,  
TOMMY GLEN MAXEY  
Monday, April 27, 2020

VIDEOCONFERENCED DEPOSITION OF TOMMY GLEN  
MAXEY, produced as a witness at the instance of the  
Defendants, and duly sworn, was taken in the  
above-styled and numbered cause on Monday, April 27,  
2020, from 10:03 a.m. to 2:04 p.m., before Debbie D.  
Cunningham, CSR, in and for the State of Texas, remotely  
reported via Machine Shorthand, pursuant to the Federal  
Rules of Civil Procedure.

--ooOoo--



## APPEARANCES

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VIDEOGRAPHER: Brian Christopher

## INDEX

APPEARANCES

2

## EXAMINATION OF TOMMY GLEN MAXEY:

BY MS. MACKIN

6

BY MR. GEISE

112

BY MS. MACKIN

115

REPORTER'S CERTIFICATION

117

## EXHIBIT INDEX

Exhibit Number	Description	Page
Exhibit 1	Defendants' Notice of Oral Deposition Pursuant to Federal Rule of Procedure 30	9
Exhibit 2	Plaintiffs' Production in Response to Subpoena	17

1 (Monday, April 27, 2020, 10:03 a.m.)

2 P R O C E E D I N G S

3 THE REPORTER: Today is April 27th, 2020.

4 This is the deposition of the Texas Democratic Party  
5 Representative, Glen Maxey, in the matter of Jarrod  
6 Stringer, et al. versus Ruth R. Hughes, et al. We are  
7 remotely situated due to COVID-19 and are appearing via  
8 Zoom conference. We are now on the record at  
9 10:03 a.m., Central time.

10 My name is Debbie Cunningham; and my  
11 business address is P.O. Box 245, Manchaca, Texas.

12 Would all persons present please  
13 introduce themselves for the record?

14 MS. MACKIN: This is Anna Mackin with the  
15 Texas Office of the Attorney General on behalf of the  
16 Defendant.

17 MR. GEISE: This is John Geise from the  
18 law firm of Perkins Coie, LLP, on behalf of Plaintiff  
19 Intervenor Texas Democratic Party.

20 MS. BRANCH: This is Aria Branch from  
21 Perkins Coie on behalf of the Plaintiff Intervenor,  
22 Texas Democratic Party.

23 MS. BRAILEY: This is Emily Brailey also  
24 from Perkins Coie on behalf of the Plaintiff Intervenor,  
25 Texas Democratic Party.

1 THE WITNESS: I'm Glen Maxey from the  
2 Texas Democratic Party.

3 MR. GONZALES: This is Joaquin Gonzales  
4 on behalf of Plaintiffs, Jarrod Stringer, et al.

5 (Witness sworn by the reporter.)

6 MS. MACKIN: And I'd just like to note on  
7 the record that the parties have stipulated that that  
8 oath can be taken remotely.

9 GLEN MAXEY,  
10 having taken an oath to tell the truth, the whole truth,  
11 and nothing but the truth, was examined and testified as

12 follows:

13 EXAMINATION

14 BY MS. MACKIN:

15 Q. All right. Good morning, Mr. Maxey.

16 A. Good morning.

17 Q. Please speak and spell your name for the  
18 record.

19 A. Tommy Glen Maxey, T-O-M-M-Y G-L-E-N M-A-X-E-Y.

20 Q. Thank you.

21 My name is Anna Mackin. I represent the  
22 Defendants in this case, and I'm going to be asking you  
23 some questions today. You have been deposed before; is  
24 that right?

25 A. That's correct.

1 Q. Okay. So you're probably familiar with what  
2 we're about to cover; but I want to briefly go over some  
3 ground rules, which are especially important given that  
4 we're remotely situated and using this videoconference  
5 technology to take your deposition today.

6 Please try to give a verbal answer to my  
7 questions. "Yes" or "no" works a lot better than  
8 "uh-huh" or "huh-uh" because it makes sure that the  
9 record is clear and Ms. Cunningham is writing down  
10 everything that we say. Okay?

11 A. All right.

12 Q. Okay. And please try to let me finish a  
13 question before you begin your answer. I will also  
14 endeavor to allow you to finish your answer before I  
15 ask my next question. This is, again, so that  
16 Ms. Cunningham can get an accurate record of everything  
17 that is said. Okay?

18 A. Okay.

19 Q. And if you don't understand one of my  
20 questions today, will you please tell me so that I can  
21 rephrase it?

22 A. Yes, ma'am.

23 Q. Thank you.

24 And if you do answer, I will assume that  
25 you have understood the question. Is that fair?



1 A. That's fair.

2 Q. Okay. A reminder: You are under oath, sworn  
3 to tell the truth as if testifying at a courthouse in  
4 front of judge and a jury under penalty of perjury if  
5 you do not tell the truth. Do you understand that?

6 A. I do.

7 Q. Okay. And this is not an endurance contest.  
8 You are the talent here. So if you ever need a break,  
9 need to stretch your legs, use the restroom, please just  
10 let me know; and we'll take a break. I'll just ask that  
11 you answer any question that is pending before we go on  
12 break. Okay?

13 A. All right.

14 Q. All right. Is there any reason that you might  
15 not be able to answer my questions honestly, completely,  
16 and accurately today?

17 A. Nothing at all.

18 Q. Okay. So during today's deposition I'm going  
19 to show you some documents by publishing them on the  
20 screen. If you have trouble seeing a document, just let  
21 me know. I can zoom in or out, scroll up or down  
22 however you need me to. Just let me know that I need to  
23 do that. Okay?

24 A. All right. Let me just say that I learned  
25 last time that with my progressive glasses, sometimes

1 I'm going to have to move the screen to see. So I  
2 might -- my picture might go out of the frame while I'm  
3 tilting the computer.

4 Q. Okay. Understood. And we also have a way to  
5 send around a little link. If it's not really working  
6 for me to publish the document on the screen, I can  
7 share a link in the chat box; and that will allow  
8 everybody to download whatever document we're talking  
9 about. So we can explore what we need to do to make  
10 sure that you're seeing the documents clearly.

11 A. Thank you.

12 Q. Of course. So let's go ahead and practice  
13 with what's going to be Exhibit 1 to this deposition.

14 MR. GEISE: Can we actually just send  
15 around the chat links as a matter of course so that  
16 counsel can download them as well?

17 MS. MACKIN: Sure, sure. That's fine.  
18 Let me stop this share, and I will circulate...

19 MR. GEISE: Yeah, we've had these hiccups  
20 before; and it just ended up being easier.

21 MS. MACKIN: Not a problem. We are all  
22 learning on the job a little bit when it comes to these  
23 depositions.

24 MR. GEISE: I was in a deposition where  
25 Debbie got cut out because she -- her house got struck

1 by lightening, so that was a particular --

2 MS. MACKIN: Oh my gosh. Are you all  
3 right?

4 THE REPORTER: Yes.

5 MR. GEISE: That was particularly  
6 different.

7 MS. MACKIN: Yeah.

8 All right. So I've sent around the  
9 document in the chat box.

10 MR. GEISE: Yeah, I got it. It worked  
11 for me. Thank you. Appreciate it.

12 MS. MACKIN: Sure.

13 (Exhibit 1 marked.)

14 Q (BY MS. MACKIN) Mr. Maxey, are you able to  
15 view that document?

16 A. Yes.

17 Q. Okay. And have you seen this document before?

18 A. Yes.

19 Q. What is it?

20 A. It's the Defendants' Notice of Oral Deposition  
21 pursuant to Federal Rule of Civil Procedure 30, in  
22 Jarrod Stringer versus Ruth Hughs.

23 Q. And do you understand that you are here today  
24 giving this deposition pursuant to this Notice of  
25 Deposition?

1 A. Yes.

2 Q. And that your testimony today is on behalf of  
3 the Texas Democratic Party, and your answers will bind  
4 the Texas Democratic Party?

5 A. That's correct.

6 Q. Okay. And throughout this conversation today  
7 when I say "TDP," I'm going to be referring to the Texas  
8 Democratic Party, just to be clear about that; and if  
9 you say "TDP," I'll also understand you to be referring  
10 to the Texas Democratic Party unless you tell me  
11 otherwise. Okay?

12 A. All right.

13 Q. All right. So I'd like to -- before we jump  
14 into the substance, I'd like to go over the seven topics  
15 for this corporate representative deposition. So if I  
16 could have you please scroll down to page 5 of this  
17 notice.

18 A. All right.

19 Q. So Topic 1 is your mission, "your" meaning  
20 that of TDP. Are you designated to testify on this  
21 topic?

22 A. Yes.

23 Q. Okay. And Topic 2, "Your organization,  
24 including your organizational structure, employees,  
25 physical assets, parent and sibling entities, tax

1 status, and history; the services that you provide and  
2 the activities that you perform." Are you designated to  
3 testify on this topic?

4 A. Yes.

5 Q. And Topic 3, "Your funding sources, funding  
6 amounts, operational expenses, operational budget, and  
7 funding activities between January 1st, 2014 and the  
8 present." Are you designated to testify on this topic?

9 A. Yes.

10 Q. Topic 4, "All activities on which you have  
11 spent funds or to which you have dedicated resources in  
12 Texas between January 1st, 2014 and the present." And  
13 then it lists, "including," several subtopics. Are you  
14 designated to testify on Topic 4?

15 A. To the level that they are not protected under  
16 our organizational First Amendment rights.

17 Q. And what do you mean by that?

18 A. Well, it's my understanding that, as an  
19 entity, that we have the ability to not disclose our  
20 day-to-day operational things; but I can, to the level  
21 my attorney tells me, answer this question -- these  
22 questions in Number 4.

23 Q. And there isn't another person who would be  
24 designated to testify on Topic Number 4, is there?

25 A. No. I am it.

1 Q. You are it. All right.

2 Topic 5, "All activities on which you  
3 plan to spend funds or to which you plan to dedicate  
4 resources in Texas between the present and January 1st,"  
5 2014 [sic.] Mr. Maxey, are you designated to testify on  
6 this topic?

7 A. Well, it's 2024, not 2014, but --

8 Q. Correct. Apologies.

9 A. Yes, I am.

10 Q. Thank you for keeping me honest. I appreciate  
11 it.

12 Topic 6, "The allegations in your  
13 Complaint and the factual bases therefor." Are you  
14 designated to testify on this topic?

15 A. I am.

16 Q. And the word "Complaint" as used in Topic 6,  
17 do you understand that to mean the Complaint that your  
18 attorneys filed on behalf of the Texas Democratic Party,  
19 the DSCC and the DCCC in this lawsuit?

20 A. Yes.

21 Q. Okay. Thank you.

22 And then Topic 7, "Your members who are  
23 eligible to use the DPS website for a driver license  
24 renewal or change-of-address transaction and intend to  
25 do so." Are you designated to testify on this topic?



1 A. Yes.

2 Q. All right. And, finally, Number 8, "The  
3 documents produced in response to the subpoena duces  
4 tecum," described and attached to the Deposition Notice.  
5 Are you designated to testify on this topic?

6 A. I have no idea what those words mean, but I  
7 suppose I am.

8 Q. Okay. Is it your understanding that some  
9 documents have been produced to the Defendants by your  
10 attorneys --

11 A. Yes.

12 Q. -- and that we can talk about them today?

13 A. Absolutely.

14 Q. All right. Sounds good.

15 All right. So how did you prepare for  
16 today's deposition, Mr. Maxey?

17 A. I reviewed all of the documents that were  
18 shared to me by my attorney. I had conversations with  
19 my attorney about the general scope of what we would  
20 discuss today.

21 Q. And which documents did you review?

22 MR. GEISE: Objection, attorney-client  
23 privilege. I think he said he reviewed documents  
24 provided to him by counsel. So I would instruct the  
25 witness only to answer any documents that were not

1 provided by counsel.

2 MS. MACKIN: Is it your position that  
3 we're going --

4 (Simultaneous speakers.)

5 MS. MACKIN: -- document is that that's  
6 privileged because I'm not asking him about advice of  
7 counsel. I'm simply asking which documents he relied  
8 upon to prepare to testify on the topics.

9 MR. GEISE: I think that if he was  
10 provided documents by counsel, then which documents he  
11 was provided to review in preparation for the deposition  
12 is attorney work product and goes to the mental  
13 impressions of counsel.

14 So if you reviewed any documents outside  
15 of those provided by counsel, I would -- you can answer  
16 that. If the only documents you reviewed were documents  
17 which counsel provided you to review, I would instruct  
18 you not to answer.

19 I think he's allowed to answer how many  
20 documents he reviewed, but -- or the general topics of  
21 documents he reviewed.

22 But I think that specific documents you  
23 reviewed, I would instruct you not to answer. So with  
24 that instruction, you can answer the number of documents  
25 you reviewed and the general scope of the documents you

1 reviewed.

2 MS. MACKIN: I'd just like to note on the  
3 record that I don't think that's correct. Of course,  
4 the witness is able to answer to the extent that he  
5 feels is appropriate; but the mere fact of reviewing a  
6 document and the nature of what the document is is not  
7 protected.

8 MR. GEISE: And, again, I would instruct  
9 the witness that I believe that reviewing specific  
10 documents selected by counsel goes to the mental  
11 impressions and work product of counsel. And I would  
12 instruct the witness to answer a summary, a general  
13 summary of the documents -- well, a general summary of  
14 the documents you reviewed at a high level and the  
15 number. And that's what I would instruct the witness to  
16 answer.

17 A. So I reviewed approximately, I would say,  
18 maybe about 50 documents that were sent to me by counsel  
19 that all appeared to be the filings in this case alone.  
20 I have not looked at any document, done any research  
21 outside of my general knowledge about the Texas  
22 Democratic Party in response to doing this deposition.  
23 I have not looked at anything outside of what came that  
24 appeared all to be things that have already been  
25 produced into the record or will be produced into the

1 record in this lawsuit.

2 Q. So you did not search any files for documents  
3 in preparation for today's deposition?

4 A. No. My brain is it.

5 Q. Did you bring any documents with you today?

6 A. Nope.

7 Q. Your attorneys have produced 55 PDF files to  
8 us as a response to the subpoena attached to this  
9 Notice. I'm going to make all of those files Exhibit 2  
10 to this deposition.

11 (Exhibit 2 marked.)

12 Q. (BY MS. MACKIN) We will pull up a few of them  
13 later on to look at them, but the documents that were  
14 produced to us all appear to be e-mails sent by the  
15 Texas Democratic Party to, be it -- well, it was not  
16 clear who they were sent to; but they appeared to be  
17 externally- sent e-mails, not within the Party, but sent  
18 outside of TDP. Did you review any of those documents  
19 in preparation for your deposition?

20 A. I did. I went through each one of them  
21 opened. There were some of them that were garbled that  
22 I couldn't read, but they seemed to be in the same vein  
23 as the previous ones; and historically every one of  
24 those e-mails I also received in my inbox when they were  
25 originally sent.

1 MS. MACKIN: Okay. And I'm just going to  
2 memorialize, again, on the record our objection to  
3 withholding documents that the witness reviewed in  
4 preparation for today's deposition, and we do request a  
5 supplementation of that production to ensure --

6 THE WITNESS: I --

7 (Simultaneous speakers.)

8 MR. GEISE: Well, Glen, you don't --  
9 Glen, you don't have to answer.

10 We can discuss that after the deposition  
11 or off the record of the deposition. We are happy to  
12 discuss our -- we maintain that the Texas Democratic  
13 Party has publicly available financial records and that  
14 anything that is an internal Party document is subject  
15 to the First Amendment privilege, is not critical to the  
16 needs of this case or critical to establishing the Texas  
17 Democratic Party's standing and that --

18 MS. MACKIN: I think, Counsel, we can  
19 discuss --

20 MR. GEISE: We can discuss that off the  
21 record. We don't need to have that discussion now.

22 MS. MACKIN: I'm just preserving our  
23 objection on the record.

24 MR. GEISE: Yes, understood. And I'm  
25 preserving our response; but, yes, we can talk after.

1 Q (BY MS. MACKIN) All right. Mr. Maxey, did  
2 you meet with anyone at TDP to prepare for today's  
3 deposition?

4 A. No, ma'am.

5 Q. And how many times did you meet with counsel  
6 to prepare for today's deposition?

7 A. Once.

8 Q. And how long did you meet with counsel?

9 A. I think approximately an hour.

10 Q. Okay. And are you adequately familiarized  
11 with the facts to testify as TDP's representative today?

12 A. I believe so.

13 Q. Okay. Just a brief discussion of your  
14 background, Mr. Maxey. You are currently employed by  
15 TDP; is that correct?

16 A. That's correct.

17 Q. What is your job title?

18 A. Currently my job title is Primary Director.

19 Q. How long have you held that position?

20 A. Well, I work for the Texas Democratic Party  
21 year round; and I use different titles depending on the  
22 time of the election cycle. For instance, during the  
23 legislative session, I am the Legislative Director. I  
24 lobby for the Party and election issues before the Texas  
25 Legislature. So during the primary season, which begins



1 approximately September 1st of the odd year, through the  
2 month after the runoff election, which is now going to  
3 be August, I have the title of Primary Director because  
4 we're in the period of having our Democratic primary and  
5 primary runoff.

6 Q. Do you report to anyone in your role with the  
7 Texas Democratic Party?

8 A. I report to the chairman of the Party,  
9 Gilberto Hinjosa and Manny Garcia.

10 Q. And does anyone report to you?

11 A. I'm -- I do not have general employees  
12 reporting to me. I am a senior advisor. So many of the  
13 employees come to me for advice about election law, job  
14 descriptions, things that I am knowledgeable of, since  
15 I've been doing this over 50 years and most of them are,  
16 you know, in their twenties. And Luke Warford, who is  
17 the Director of Voter Registration -- or Voter  
18 Expansion, which is voter registration and vote by mail  
19 and those kind of programs, reports directly to me.

20 Q. Okay. So Luke Warford is your direct report;  
21 and then for others, you are a wealth of institutional  
22 knowledge, so to speak?

23 A. Yes.

24 Q. Okay. Who made the decision that the Texas  
25 Democratic Party would join this lawsuit?

1 MR. GEISE: Objection. I think that that  
2 goes to attorney-client privilege as well as the First  
3 Amendment privilege. I would instruct the witness not  
4 to answer.

5 MS. MACKIN: To be clear, I'm not asking  
6 why the Texas Democratic Party decided to join this  
7 lawsuit. I'm simply, under the topic of the  
8 organizational structure, seeking to understand those  
9 lines of authority.

10 MR. GEISE: I don't think that how the  
11 Texas Democratic Party makes strategic litigation  
12 decisions -- I think that's First Amendment privileged  
13 and not relevant to this lawsuit. I would instruct the  
14 witness not to answer.

15 MS. MACKIN: And I'll note again I didn't  
16 ask how that decision was made. I asked for the  
17 identity of the individual with the decision rights to  
18 make it.

19 MR. GEISE: Understood. I would still  
20 instruct the witness not to answer.

21 A. Therefore, I will not answer under the advice  
22 of counsel.

23 Q. (BY MS. MACKIN) You're following the advice  
24 of your counsel. Okay.

25 All right. I want to jump into Topic 1.

1 What is the mission of the Texas Democratic Party?

2 A. The mission of the Texas Democratic Party is  
3 to elect people who call themselves Democrats to public  
4 office at all levels, from president to public offices,  
5 such as city councils and school boards, that are  
6 non-partisan. But anybody who believes in the  
7 Democratic philosophy, agrees with our platform. We  
8 educate voters. We register voters so that they are  
9 capable of casting a ballot. We inform voters about  
10 issues and candidates. We run coordinated campaigns to  
11 elect those Democrats. There are literally thousands of  
12 different pieces of all of that, but generically it's  
13 electing Democrats to public office.

14 Q. Okay. Has the mission of the Texas Democratic  
15 Party changed over time?

16 A. No. I mean, the fundamental mission, you  
17 know, began when the Party was formed in the early 1800s  
18 to be the mission of electing people of our Party, with  
19 our general philosophy and support our platform, to  
20 public office. That's always been our mission. I don't  
21 think we've deviated very far with that. How we do  
22 that, methodologies, have changed radically over time;  
23 and certainly radically just in the last decade,  
24 radically in the last months because of the pandemic.  
25 So methodologies have changed, but mission has not.

1 Q. And when you say methodologies have changed,  
2 how have those methodologies changed?

3 A. Well, there was not a -- when I started in  
4 this business doing Democratic Party work, there were  
5 no computers. I started out on a manual typewriter  
6 without -- not even with white-out or a corrective  
7 ribbon. So the access to cellphones versus land lines  
8 versus party lines over the 50 years I've been doing  
9 this, access to whether you could do -- you know, I have  
10 been from hand address the envelope, to stick on the  
11 adhesive label, to laser printing at a mail shop over  
12 the 50 years that I've been doing this.

13 So, I mean, all kinds of technology, all  
14 kinds of communications, the fact that you can now talk  
15 to tens of thousands of people simultaneously through  
16 an e-mail is radically different than when we had to  
17 phone each individual voter one by one when I started a  
18 mere -- in the 1980s, you know. So the methodologies of  
19 communicating and the fact that we have a voter  
20 registration system where a person has to fill out the  
21 paper form and put a wet signature on it that has  
22 changed over the years to the ability of people who can  
23 be registered to vote when they get their driver's  
24 license renewed or registered or get a driver's license  
25 for the first time, which brings us all the way to this

1 lawsuit. The State of Texas is refusing to follow  
2 federal law in registering a person to vote when they  
3 change their driver's license address.

4 MS. MACKIN: I'm going to object to the  
5 last sentence as nonresponsive to the question.

6 Q. (BY MS. MACKIN) I would like to ask you,  
7 Mr. Maxey, you mentioned that in the past few months,  
8 even, methodologies have changed in light of the  
9 pandemic. Can you tell me a little bit about how that  
10 has changed?

11 A. Well, I would have had right now literally  
12 dozens upon dozens of TDP employees knocking on doors  
13 and being in the living rooms of voters or on their  
14 porch having conversations about registering to vote.  
15 Because of the COVID-19 those person-to-person  
16 interactions are not happening. So now we're having to  
17 do things in a different way of e-mail and phone calling  
18 and other kinds of things, sort of a throwback to what  
19 we did 50 years ago. So person-to-person communications  
20 are not possible in social-distancing situations or at  
21 least not advisable. We're not putting people at risk  
22 to even put people in the situation that they have to be  
23 6 foot apart. We don't want anybody to -- until the  
24 governor and the president say it's all clear, we won't  
25 be doing that kind of door-to-door campaigning.

1 Q. Okay. I want to talk about TDP's  
2 organizational structure. Can you explain to me how TDP  
3 is structured?

4 A. How it's structured governance-wise?

5 Q. Yes, sir.

6 A. The Texas Democratic Party has an Executive  
7 Committee that's elected at our quadrennial state  
8 conventions by delegates that are elected that consist  
9 of a chairman and a vice chair and then 62 people, 31 --  
10 two from each of the 31 state Senate districts, a man  
11 and a woman. So it's a 64-member Executive Committee  
12 that's outlined in the Texas Election Code statutorily,  
13 membership of that committee. They make the policy.  
14 The Executive Director hires -- I mean, the State Chair  
15 hires an Executive Director. The Executive Director  
16 hires a staff. The staff reports to the Executive  
17 Director. The Executive Director reports to the State  
18 Chair.

19 Q. And within that structure, would you fall  
20 under the staff category?

21 A. Yes.

22 Q. Okay. And how many other staff members does  
23 TDP have right now?

24 A. As reported in our staff meeting last week, we  
25 had 61 staffers.



1 Q. And how are TDP staff members paid? I'm not  
2 asking how much, just where the funds come from.

3 A. They come from donations that are made legally  
4 and through federal and state law from donors,  
5 individuals, organizations, political action committees.

6 Q. Okay. I'm going to jump ahead to Topic 4.  
7 And as you were alluding to earlier, Mr. Maxey, I  
8 understand that there are various permutations of how  
9 TDP furthers its mission and sort of engages in its  
10 activities; but I would like to understand kind of the  
11 main buckets of activity, the main categories of  
12 activity, that TDP is engaged in.

13 From what you said earlier, I wrote down:  
14 Elect Democrats, educate voters, and register voters.  
15 But I don't want to sort of pin you to that if there's  
16 kind of a better way to describe the main categories of  
17 activity that TDP engages in.

18 A. Sure. Let me just run down sort of job titles  
19 of the 61 people, and that will give you an idea.

20 Q. Cool. Perfect.

21 A. We have a comptroller who receives and expends  
22 the funds, who makes all the reports to the Federal  
23 Election Committee and Texas Election Committee. She  
24 has two assistants that also deal with HR and hiring and  
25 doing Human Relations kind of hiring and removing

1 employees.

2 We have a data team that works on the  
3 voter files, targeting, preparing lists for phone  
4 banking, voter contact all through technology systems.  
5 It's basically data work.

6 We have a fundraising team that consists  
7 of four people that raise money from individual donors  
8 and major donors and organizations.

9 As I said, we have an Executive Director.  
10 We have an Assistant Executive Director who also does  
11 sort of the political work of the organization.

12 We have a political team that has two  
13 people that work directly with candidate services, two  
14 people who work directly with volunteers for the  
15 candidates, two people who work directly with the county  
16 parties, with their plans, funding plans, coordinated  
17 plans, training county chairs and county executive  
18 committees and volunteers at the county level.

19 I'm sort of going around my office.

20 We have a five-member voter protection  
21 team that deal with voter laws and educating people to  
22 comply with all election laws and assist where we find  
23 voters who have had problems casting their ballot or  
24 getting registered, to make sure that everybody is  
25 legally able to participate.

1           There's the voter expansion team, Luke  
2 Warford, who does voter registration, vote by mail. I  
3 work a lot in that program.

4           We have a communications staff, typical  
5 communication directors, research director, digital  
6 team, people who do all of our online, whether it's  
7 e-mails, Instagram, Facebook, Twitter, all of those kind  
8 of programatic things.

9           And we have an organizing team that works  
10 in the field. We have constituency organizers for  
11 allied groups within the Party, African-Americans,  
12 Hispanic, disability community, LGBT community, the  
13 women's community, Asian Pacific Islanders community. I  
14 might be missing one of those groups, but there's a  
15 staffer there.

16           And then there are literally -- there  
17 will be by November approximately a thousand people in  
18 the field talking to voters all over the state of Texas.

19           And that's how we do it.

20           Q.   That's how the sausage is made.

21           Okay. So I appreciate that rundown. And  
22 it sounds, from what you've said, like some of those  
23 apparatuses are necessary to engage in a variety of  
24 activities, like, it's not like you just have a -- like,  
25 for example, your comptroller, that's sort of

1 infrastructure that's, like, necessary for the whole  
2 organization to run, right?

3 A. Well --

4 MR. GEISE: I'm just going -- I think  
5 it's -- I'm just going to object to preserve the First  
6 Amendment objection and just instruct the witness. I  
7 think this is all fine. You can continue to answer at a  
8 high level. I just -- you know, if we start getting  
9 into more and more detail, I just wanted to preserve  
10 that objection for the record.

11 THE WITNESS: I understand.

12 A. So let me just say that nothing's siloed.  
13 Everybody on our staff is trained to register a voter.  
14 Everybody on our staff is trained to answer a voter's  
15 questions so that no matter where -- what department  
16 you're in, we're all supportive; and we're cross-  
17 trained. Nothing is -- I mean, there are some people  
18 who do just the same thing every day; but I work in  
19 pretty much all of those areas.

20 I'm the author of many of the  
21 communication e-mails we send out, perhaps, on voter  
22 registration. And I think that's the whole nut of where  
23 we're going with this is that we are having to move  
24 money from all of those departments to deal with voter  
25 registration because the State, in this case, is not

1 doing its work in registering people appropriately.

2 Q. (BY MS. MACKIN) Okay. And so I'm trying to  
3 get a list of the main activities of the Texas  
4 Democratic Party. And so based on what you've said, it  
5 sounds like there is fundraising. There is candidate  
6 services. There is county services, voter protection,  
7 voter expansion, and maybe organizing. I mean, if you  
8 had to break it down into categories of activity, how  
9 would you do that, because I appreciate the explanation  
10 of kind of the departments and the structure?

11 A. Every day we communicate with voters. We  
12 educate voters. We help Texans who are not registered  
13 get them registered in myriads of ways to make sure that  
14 we expand the voting pool. We educate them how to cast  
15 a vote, when to cast a vote, where to cast a vote, and  
16 who to cast a vote for, pure and simple.

17 Our main goal right now is to register  
18 approximately 2.6 million people to vote, which we're  
19 spending lots of money on doing because the State of  
20 Texas is not following the federal law in registering  
21 people when they change their driver's license.

22 Q. And just to be clear on the record, Mr. Maxey,  
23 are you an attorney?

24 A. No, and I never claimed to be one.

25 Q. Okay. And --

1           A.     But let me just say this, though: I'm not an  
2 attorney, but I was a legislator for 12 years. I have  
3 drafted in the last four election cycles more than 150  
4 pieces of election law. I have gotten legislators to  
5 file them. I have testified on behalf of those bills,  
6 and I have rewritten major sections of the Election Code  
7 through things that I have drafted. So I am not an  
8 attorney, but I understand the law.

9           Q.     Okay. And I appreciate that.

10                   I want to come back to what I'm trying  
11 to understand with this question about TDP's activities.  
12 So TDP engages in communications, right? You  
13 mentioned -- when I just tried to get a list the last  
14 time, you said communication, education, and voter  
15 registration; but that doesn't seem to capture  
16 everything that you talked about.

17           A.     Please ask something specifically about what  
18 you want to know, and I'll answer it.

19           Q.     Sure. So what are the main categories of  
20 activities that TDP is engaged in? And I think I did  
21 ask that already, but I'll ask it again.

22                   MR. GEISE: Objection to the form.

23                   You can answer.

24           A.     I'll answer it yet again. Our mission is to  
25 educate voters to vote for Democratic candidates. In



1 order to do that, we must register them to vote. We  
2 must educate them when, where, and how to vote. That's,  
3 pure and simple, everything that we do. Candidates,  
4 training, it's all about getting them elected. We train  
5 them how to campaign, but our overarching goal is to  
6 have more votes for Democrats than for Republicans,  
7 Green Parties or Libertarian candidates or Write-in  
8 candidates. That's our goal, pure and simple: Elect  
9 Democrats. Number 1 on that is to have more Democrats  
10 registered to vote, and that's the problem we're having  
11 here is that we have impediments to doing that. We're  
12 having to move funds into --

13 Q. (BY MS. MACKIN) Okay. But I'm not hearing an  
14 answer to my question.

15 A. Sorry. Don't interrupt me. You told me I  
16 could answer a question before you would interrupt.

17 So our goal is to register voters to  
18 vote, and there is an impediment by the State of Texas  
19 not registering voters when they update their driver's  
20 license.

21 MS. MACKIN: Okay. Objection,  
22 nonresponsive.

23 Q (BY MS. MACKIN) Mr. Maxey, what are the main  
24 categories of activities that TDP is engaged in?

25 MR. GEISE: Objection, asked and

1 answered.

2 MS. MACKIN: I didn't hear an answer to  
3 my question.

4 A. The main activities are voter registration,  
5 voter education, candidate recruitment, candidate  
6 education, and telling people when, where, and how to  
7 cast a ballot. That's it in a nutshell. Whether we  
8 raise money, whether we do data work, whether we do  
9 communication, it's all about registering people to  
10 vote, getting them to go vote for Democratic candidates.  
11 Answered.

12 Q. (BY MS. MACKIN) And so is there a difference  
13 between -- I just want to make sure I have the list  
14 correct. I have as the main activities: Communication,  
15 voter education, voter registration, candidate  
16 recruitment, and candidate education. Do I have that  
17 right?

18 A. Well, I don't know if it's limited to that.  
19 I've been talking for 15 minutes here about the mission  
20 of the Party and what we do and named every staffer with  
21 a job description title. I think any logic is that all  
22 of those things go back to having an educated electorate  
23 of Democrats who know when an election is, where to go  
24 vote, how to cast a ballot, how to do it legally, how to  
25 do it, whether in person or by mail. All of that stuff

1 is our mission to get to the goal of electing Democrats  
2 to office, pure and simple.

3 Please be specific because I've answered  
4 that five times now.

5 Q. The thing that I'm struggling with, though --

6 A. You want me to give you a tick-tock of hours  
7 from 8:00 to 5:00 every day of what I do? Is that what  
8 you --

9 Q. No, sir.

10 A. Okay. Then think of a question other than the  
11 one you've asked five times now, that I've answered.

12 Q. But respectfully, sir, it's a fair question;  
13 and I'm just trying to make sure that I have the answer  
14 clear because I'm a little bit confused by the way that  
15 it's being answered.

16 So the list I have of the main activities  
17 that TDP is engaged in, the list that I have of the main  
18 activities -- I understand your mission is to elect  
19 Democratic candidates, pure and simple. I've heard  
20 that. I appreciate that. In terms of the specific  
21 activities in which TDP is engaged, the main  
22 activities -- I'm not asking for each granular thing;  
23 but if you kind of divide it up, the work that TDP does,  
24 I have five categories based on what you've said. And I  
25 want to make sure that I understand that right and that

1 I have everything down as a list. So the list that I  
2 have --

3 A. (Inaudible.)

4 Q. Go ahead.

5 A. I'm not -- you've not asked a question. Ask a  
6 question.

7 Q. Okay. You started speaking, so I wanted to  
8 give you an opportunity to do so.

9 The list that I have for the main  
10 activities that TDP is engaged in includes:  
11 Communication, voter education, voter registration,  
12 candidate recruitment, and candidate education. Is that  
13 an accurate and complete list of the main categories of  
14 activities that TDP is engaged in?

15 MR. GEISE: Objection, mischaracterizes  
16 the testimony.

17 But you can answer.

18 A. I don't think -- when you say is it a complete  
19 list -- because I don't want to -- you know, it sounds  
20 like a trick question here. If you want me to add on to  
21 it, we raise money to do those activities. We do data  
22 work to do those activities. We do work with county  
23 parties and candidates and volunteers and activists and  
24 voters to do those activities. It seems like I'm in a  
25 circular question here.

1 Q. I'm not trying to --

2 A. We want voters to cast ballots. The main --  
3 the only mission we have is for voters to vote for  
4 Democratic candidates and for those Democratic  
5 candidates to win. Anything more than that is getting  
6 into granular things of how we do that. And I can talk  
7 for hours if we want to do that; but you keep saying, "I  
8 want to just go at the top level of stuff." So let's  
9 stay at the top level. We educate voters. We register  
10 them to vote. We educate them again about when the  
11 election is, how to vote, where to vote to cast a vote  
12 for a Democrat. That is the mission of TDP, pure and  
13 simple; and that is it.

14 You might have five things on your list.  
15 There's one thing on the list: Educate voters, register  
16 voters, turn them out to vote. And I don't know what  
17 else you're trying to get to. Be more specific.

18 Q. So does TDP participate in any activities that  
19 don't fall into either communication, voter education,  
20 voter registration, candidate recruitment, candidate  
21 education, or fundraising?

22 MR. GEISE: I'm going to object, asked  
23 and answered.

24 But you can answer.

25 A. Sure. We just had a staff party. None of

1 that was about voter education or voter registration or  
2 turning out a vote.

3 I mean, we're a big institution. We do a  
4 lot of things. I don't think any activities that are  
5 officially done in a job description of an employee of  
6 the Texas Democratic Party is outside of the goals of  
7 educating voters, registering voters, and getting them  
8 to cast a ballot for Democratic candidates. So, no, I  
9 don't think we do anything outside of that mission.

10 Q. (BY MS. MACKIN) Educating, registering,  
11 getting them to cast a ballot for Democratic candidates?

12 A. If you know something you only answer "yes" or  
13 "no" when you do it, please ask me; but I can't think of  
14 anything that's outside of that mission that the  
15 employees of the Texas Democratic Party or its Executive  
16 Committee or Chair does.

17 Q. Okay. Thank you.

18 All right. How would you describe TDP's  
19 efforts to educate voters?

20 A. We communicate by e-mail, by text message, by  
21 Twitter, by direct mail, by speeches by various  
22 candidates, party officers, staffers. We go door to  
23 door. We make phone calls. Any kind of communications  
24 that humans possibly have, we do to talk about  
25 Democratic values, registering to vote, how to get



1 registered to vote, when to go vote, and how to vote for  
2 Democrats. So we communicate in all of those ways.

3 Q. And have you produced documents that reflect  
4 those communications?

5 A. There are documents of e-mails that we have  
6 sent to voters that were produced.

7 Q. Is there documentation of those other types of  
8 communications that you mentioned?

9 MR. GEISE: Objection on the basis of the  
10 First Amendment privilege.

11 I think you can answer "yes" or "no"  
12 whether other types of communication with voters exist;  
13 but other than that, I'm going to object on the basis of  
14 the First Amendment privilege and instruct you not to  
15 answer other than whether or not other types of  
16 communications exist.

17 MS. MACKIN: And just to be clear, have  
18 you-all produced a privilege log of documents responsive  
19 to the subpoena that are being withheld?

20 MR. GEISE: Not -- well, no. I don't  
21 think that a privilege log would need to hold every  
22 communication that the Texas Democratic Party has with  
23 voters because that would be millions, and that wasn't  
24 what the subpoena requested. But, again, I don't think  
25 that that needs to be a discussion for this deposition.

1 I would instruct the witness: You can  
2 answer "yes" or "no" whether there are communications  
3 outside of e-mails that the Texas Democratic Party has  
4 with voters.

5 MS. MACKIN: And we can talk offline  
6 about the scope of the objection; but based upon what  
7 we've heard so far today, it appears that the response  
8 to the subpoena's incomplete and that we have some  
9 issues to resolve with respect to that.

10 MR. GEISE: Well, I don't know that  
11 that's a topic for the witness; but you can answer "yes"  
12 or "no" --

13 MS. MACKIN: I --

14 MR. GEISE: All right. So you can answer  
15 "yes" or "no" whether or not there are communications  
16 other than e-mails that the Texas Democratic Party has  
17 with voters.

18 A. Can you be more specific what you mean by  
19 that?

20 Q (BY MS. MACKIN) The question I asked --

21 MS. MACKIN: Ms. Cunningham, would you  
22 mind reading back my last question?

23 THE REPORTER: Okay.

24 MS. MACKIN: Thank you.

25 (The requested material was read as

1 follows:

2 "QUESTION: Is there documentation of  
3 those other types of communications that you  
4 mentioned?" )

5 A. Generically in my answer I was talking -- you  
6 said what kind of communications do we have with voters,  
7 I think was the original question; and I said we have  
8 direct mail. That would be the glossy kind of mail that  
9 you send a candidate -- to voters about issues or  
10 candidates and giving voter information. I suppose we  
11 have those laying around from the past election cycle.  
12 We've not done those this election cycle yet.

13 But there's -- if we're asking if there's  
14 communication about this case, no, I don't know of  
15 anything that we have. I have no knowledge of anything  
16 like that being in existence.

17 I was talking about generically what a  
18 volunteer -- an organizer would -- how they would  
19 communicate -- you asked how do we communicate, and so  
20 that's what I was saying. The LGBT organizers talking  
21 to LGBT voters could be passing out literature or hand  
22 them a palm card or something that says about getting  
23 ready to vote or passing out voter registration cards.  
24 That's the kind of communication I was talking about.

25 You seem to be talking about

1 communications about this lawsuit; and, no, I don't have  
2 any of those, never have seen any of those.

3 Q. (BY MS. MACKIN) Okay. How much did TDP spend  
4 on voter education in 2014?

5 A. You know, I don't know that I can break out  
6 voter education. I mean, the staff salaries for all of  
7 the people we had in 2014, whether they're the data  
8 person or the fundraising person or the comptroller's  
9 salary or the executive director's salary or my salary,  
10 I know that generically in 2014, we spent around  
11 \$2 million, raised and spent.

12 Q. Total?

13 A. Total.

14 Q. So not limited to voter education, but  
15 overall?

16 A. Well, there's -- I don't have any knowledge  
17 about how to pull that out of my brain about what was  
18 voter education and what was just institutional  
19 organizational payroll and things. We could ferret out  
20 that the comptroller is doing voter education if she's  
21 processing the money that we pay for voter education.  
22 So I don't know how you find -- I don't know the details  
23 of how much was voter education versus any other  
24 mission -- part of the mission. Approximately  
25 \$2 million -- all of this is public record at the FEC

1 and TEC.

2 Q. So you couldn't tell me --

3 A. What we spent I cannot tell you, no, not  
4 today, not from my memory how much of the \$2 million was  
5 specific on voter communication, however nebulous that  
6 is.

7 Q. How about voter registration efforts in 2014,  
8 could you tell me how much TDP spent on voter  
9 registration efforts in 2014?

10 A. No, ma'am.

11 Q. Okay. What about in 2015?

12 A. No. I mean, because --

13 Q. What about in 2016?

14 A. You're asking me --

15 MR. GEISE: Objection, asked and  
16 answered. I think the witness has answered that it  
17 would be impossible to calculate those numbers.

18 But you can answer to the extent of your  
19 ability.

20 A. Well, I will just say that, you know, we  
21 passed out a lot of voter registration applications,  
22 most of those provided to us by the Secretary of State  
23 at no cost. We did online voter registration. There's  
24 a cost to maintaining that and staffing that. We mailed  
25 out voter registration applications when people

1 requested them. We did rallies with voter registrars,  
2 volunteer voter registrars. So to ferret out exactly  
3 how much generally educating a volunteer how to do voter  
4 registration and how much that time of training cost  
5 down to the cent, I can't do. I cannot ferret it out.  
6 It's impossible for us to even do that.

7           So part of -- part of our budget went to  
8 voter registration; but figuring it out to the penny or  
9 even a gross amount -- because, like I said, everybody  
10 on our staff in almost every department, whether the  
11 digital people are sending out links to go fill out a  
12 voter registration application, whether an organizer's  
13 standing at a door, whether an organizer is door  
14 hanging, whether a college student is tabling on the  
15 university campus, all of which are things that we  
16 organize and train volunteers to do, the cost of that is  
17 impossible to ferret out because everybody in our  
18 department is somehow touching that. So I can't tell  
19 you a number. It's impossible.

20           Q.     (BY MS. MACKIN) And is that true for every  
21 year between 2014 and 2020?

22           A.     Yes.

23           Q.     Okay.

24           A.     Now, if you asked -- you know, at some point  
25 in time, a person -- if we had done a mailing and I had



1 time to go research it, I could probably find out some  
2 things; but I don't know that -- anything from memory  
3 that I could pull out and give you a cost on.

4 Q. But you were designated to testify on Topic  
5 4(d) in the Deposition Notice, were you not?

6 A. Yes, ma'am.

7 Q. Okay.

8 A. And I did not go and do ten years of stuff and  
9 have it in my brain for this deposition this morning.  
10 So, no, I don't know the details.

11 MS. MACKIN: So to that extent, then,  
12 we're going to have to object to the preparedness of the  
13 witness.

14 MR. GEISE: I think the witness -- I  
15 think the witness said that it would be -- and I can  
16 clean this up with some questions after; that's fine.  
17 I'll wait to do that. But I think the witness testified  
18 that it would be impossible to determine those numbers,  
19 and he gave a top-line number for the question you  
20 asked. So he can testify top line how much was spent.  
21 He's indicated that all of the Texas Democratic Party's  
22 spending is publicly available on both the FEC and the  
23 Texas Ethics Communication website and is happy to  
24 testify about any specifics of those that you want to  
25 provide him for and ask him about.

1 And I don't think that the witness needs  
2 to be prepared to do something which is impossible.  
3 He's testified that he can give top-level amounts. He's  
4 prepared to talk about programmatic aspects of every one  
5 of those years, the programs they did; and I think that  
6 top-line amounts and programs is, from the witness'  
7 testimony, the only level of detail that would be  
8 possible for anyone to testify to. So I don't know how  
9 we would prepare anyone to do more than that. Having  
10 said that --

11 MS. MACKIN: I think that this --

12 MR. GEISE: Again, this is a discussion I  
13 suppose should be offline.

14 Q. (BY MS. MACKIN) Just to make sure everything  
15 is perfectly clear, all activities on which TDP has  
16 spent funds or to which TDP has dedicated resources in  
17 Texas between January 1st, 2014 and the present  
18 including, total funds spent on voter registration  
19 efforts, that number is not -- is it your testimony,  
20 Mr. Maxey, that that number is not knowable?

21 A. It is not knowable.

22 Q. Okay. How does the Texas Democratic Party  
23 track the success of its voter education efforts -- or  
24 let me ask that better.

25 Does the Texas Democratic Party track the

1 success of its voter education efforts?

2 A. I think that's a broad question. We do  
3 metrics, you know. We know when we send an e-mail how  
4 many people open the e-mail. We don't know if they read  
5 it or not. We know that they opened it.

6 We know that -- studies are done over  
7 time that there are areas of Texas where we do door-  
8 to-door activities or have done series of mailings to  
9 voters to persuade them or educate them; and after an  
10 election, we do analysis of are the turnout patterns  
11 bigger where we did those efforts or didn't.

12 We make a phone call to a voter. We tell  
13 them to go vote. We then look at daily, during early  
14 vote, whether that voter has cast a ballot or not. If  
15 we had done a million of those calls and nobody that we  
16 called voted, we would probably stop making the phone  
17 calls.

18 So, yes, we track all of this stuff to  
19 the best of our abilities using technology, pen and  
20 paper, you know, marks on a walk sheet about who we  
21 talked to, whether that person then went to vote. And  
22 whether in those precincts where we have done activities  
23 we won the precinct or didn't win the precinct tells us  
24 a lot about activities. So yes, yes, we do.

25 Q. And so does TDP adjust -- I mean, I think you

1 said this; but I want to make sure it's clear. Does TDP  
2 adjust its activities based on the success rate?

3 A. Sure. I mean, let me just say that, you know,  
4 in my world of asking the Legislature to do things, I've  
5 asked the Legislature to pass bills allowing people to  
6 go online and register to vote. If that were the case  
7 in Texas, we would not be spending the time and effort  
8 to go door to door, to table, to mail out voter  
9 registration applications to newly -- new arrivals in  
10 Texas or people who moved in. We wouldn't be doing all  
11 that activity, expending that money, expending that  
12 staff time if we had more accessible voter registration  
13 in Texas. So, yes, we are changing our programatic  
14 stuff in response to the voter suppression in Texas day  
15 by day.

16 So that is our mission is to educate  
17 voters. We have big impediments in Texas for voter  
18 registration, the most restrictive state in the nation  
19 for registering people to vote. And so we spend a  
20 myriad amount of money and adjust our budget accordingly  
21 to all of the impediments that are put in front of us.

22 MS. MACKIN: Objection, nonresponsive.

23 Q. (BY MS. MACKIN) I don't think my question was  
24 very clear. I apologize.

25 We've talked about registering voters.

1 Are TDP's voter registration efforts focused on  
2 targeting Democratic voters?

3 MR. GEISE: I'm just going to object on  
4 the basis of the First Amendment privilege. I think the  
5 question is fine.

6 But I would instruct the witness again  
7 that based on the First Amendment privilege, all these  
8 things going into specific strategy of the Texas  
9 Democratic Party, I would instruct the witness you can  
10 answer at a high level.

11 So I think that specific question is  
12 fine, but I just want to continue to note that objection  
13 for the record.

14 MS. MACKIN: If we could please limit the  
15 speaking objections, to keep objections to the rules and  
16 an instruction not to answer, I would appreciate it.

17 A. Yes.

18 Q (BY MS. MACKIN) Okay. The Texas Democratic  
19 Party began a new voter registration campaign in January  
20 of 2020; is that correct?

21 A. That's correct.

22 Q. Okay. I am going to show you some  
23 documents -- actually, rather than show you, I will send  
24 around a link so that you can view them. And these  
25 documents were produced by your counsel in response to

1 the subpoena duces tecum related to this deposition.

2 If you received that file, if you would,  
3 please pull it up for me, Mr. Maxey; and let me know  
4 when you're ready to discuss it.

5 A. I got it.

6 Q. Okay. And do you recognize this document?

7 A. Yes, it's an e-mail that was sent out by our  
8 digital department from me to people on our e-mail list,  
9 asking for donations to do voter registration and vote  
10 by mail. I guess this one is a vote-by-mail thing.

11 Q. And how does the Texas Democratic Party --  
12 well, strike that.

13 You mentioned your e-mail list. Who  
14 would be on that e-mail list?

15 A. Anybody who has requested to be on the list.  
16 People who give us an e-mail at events, at our  
17 convention, asking to be on our list.

18 Q. And a little ways down on this e-mail it talks  
19 about a contribution to our vote-by-mail fund. Do you  
20 see that?

21 A. Yes.

22 Q. What is the vote-by-mail fund?

23 MR. GEISE: I'm going to object on the  
24 basis of the First Amendment.

25 You can talk generally -- actually, no.



1 You can answer that question. To the extent it doesn't  
2 implicate internal strategic matters of the Democratic  
3 Party, you can answer that question at a high level.

4 A. It's a euphemism for money we would like  
5 people to give to us that we might use for sending out  
6 applications for seniors, disabled, and people out of  
7 the county to vote by mail.

8 Q. (BY MS. MACKIN) And do you know if the funds  
9 that were raised in response to this e-mail went  
10 directly to the vote-by-mail fund?

11 MR. GEISE: I'm going to object on the  
12 basis of the First Amendment privilege. I think that  
13 the internal financial matters of a political  
14 organization are core First Amendment protected. And I  
15 would instruct the witness not to answer. I think he's  
16 answered at the level that is adequate under a First  
17 Amendment privilege.

18 MS. MACKIN: The Protective Order entered  
19 in this case allows you to designate any portion of this  
20 transcript as confidential if you wish, so --

21 MR. GEISE: There's case law on a  
22 privilege -- on a Protective Order still not infringing  
23 or not requiring the infringement of the First Amendment  
24 privilege. So I would still instruct the witness not to  
25 answer on the basis of the First Amendment privilege

1 that the internal financial matters of a political  
2 organization are core First Amendment protected. I  
3 would instruct the witness not to answer.

4 MS. MACKIN: I'm not asking about  
5 internal financial matters. I'm asking a question that  
6 appears on the face of this document which was produced  
7 to us.

8 MR. GEISE: He answered what the  
9 vote-by-mail fund was. I think that asking the next  
10 question, which is what I objected to -- I think that  
11 asking the next question beyond that about internal  
12 financial decisions of the Texas Democratic Party is  
13 core First Amendment protected. I would instruct the  
14 witness not to answer.

15 MS. MACKIN: I'm not inquiring into  
16 internal financial decisions of the Texas Democratic  
17 Party. The issue of spending -- okay.

18 Q (BY MS. MACKIN) Are you going to decline to  
19 answer my question on the advice of your counsel,  
20 Mr. Maxey?

21 A. I do.

22 Q. Okay. So down here it also says, "Can you  
23 make a \$7 contribution to our vote-by-mail fund so we  
24 can send 21 Texans their application?" Did I read that  
25 correctly?

1 A. That's what it says.

2 Q. And so how much does it cost to send one Texan  
3 a vote-by-mail application?

4 A. Do you want to know the postage?

5 Q. I want to know how much it costs the Texas  
6 Democratic Party.

7 A. Well, approximately -- I mean, if you're doing  
8 the math here, you can divide \$7 by 21; and you'll sort  
9 of get what the cost is. There is the actual postage.  
10 There's the printing. There's the lasering. There's  
11 paying of the mail house. There is the cost of the  
12 paper. There is all of that. I would have to have a  
13 calculator to do the math here, but I'm thinking it's  
14 around about 30 to 33 cents.

15 It's different in each county, depending  
16 on whether I am sending a hundred thousand into a postal  
17 zone or whether I'm sending fifty, because it's a  
18 different postage rate. So I cannot tell you  
19 definitively the cost of a single piece. On average  
20 they're probably about 32 cents.

21 Q. Are you aware that Texans can request a  
22 vote-by-mail application be mailed to them for free on  
23 the Texas Secretary of State's website?

24 A. Do what?

25 Q. Are you aware that on the Texas Secretary of

1 State's website Texans have an ability to request that a  
2 vote-by-mail application form be mailed to them for  
3 free?

4 A. Yes.

5 Q. I'm going to show you another document which  
6 is part of Exhibit 2 and begins at TDP 33.

7 THE REPORTER: Excuse me, Ms. Mackin.  
8 I'm sorry.

9 MS. MACKIN: Yes.

10 THE REPORTER: That last document that  
11 you displayed, did you want that marked as an exhibit?

12 MS. MACKIN: So all of these documents  
13 that begin with the TDP preface, they're all going to be  
14 Exhibit 2.

15 THE REPORTER: Okay. Thank you.

16 MR. GEISE: Is now a good -- I know we've  
17 been going for a little over an hour. Is now a good  
18 time for a break?

19 Glen, I don't know if you want one. I  
20 could use a five-minute break.

21 THE WITNESS: I need to use the restroom.

22 MS. MACKIN: Sure.

23 MR. GEISE: I figured. All right.

24 MS. MACKIN: Come back at 11:25.

25 MR. GEISE: Great.

1 THE REPORTER: We're going off the record  
2 at 11:18 a.m.

3 (Off the record from 11:18 to 11:27 a.m.)

4 THE REPORTER: We are back on the record  
5 at 11:27 a.m.

6 MR. GEISE: We can't see you, Glen. I  
7 don't know if you can bring us back up.

8 There you go.

9 THE WITNESS: The technician must have  
10 turned my camera off.

11 MR. GEISE: Yeah. Just fire that guy.

12 MS. MACKIN: All right.

13 THE WITNESS: Are we talking about a  
14 document?

15 MS. MACKIN: TDP 33.

16 THE WITNESS: Okay. Got it.

17 MR. GEISE: Sorry. Did you -- is it in  
18 the -- it's not in the -- oh, there it is. It just came  
19 up for me.

20 Q (BY MS. MACKIN) Do you recognize this  
21 document, Mr. Maxey?

22 A. It's an e-mail sent by the Texas Democratic  
23 Party, yes.

24 Q. And it looks to me that there's a box that  
25 says, "What we did this year," colon, and that there is

1 no text underneath that. Do you know if that's how the  
2 e-mail went out to your Listserv?

3 A. I expect that this is a technical thing of it  
4 not showing on this thing. I'm sure it had things that  
5 we had did -- we had done that year.

6 Q. Okay.

7 MS. MACKIN: And I guess we'll just  
8 request a supplementation with a legible copy.

9 MR. GEISE: Yes, I will make a note of  
10 that.

11 MS. MACKIN: And I don't think I need to  
12 show it to the witness. I'll just let you know,  
13 Counsel, the same issue was present in TDP 37 as well.

14 MR. GEISE: Okay. Okay.

15 Q (BY MS. MACKIN) Okay. I'm going to circulate  
16 the document marked TDP 43. Mr. Maxey, please take a  
17 look at that and let me know when you're ready to  
18 discuss it.

19 A. All right.

20 Q. Do you recognize TDP 43?

21 A. It's an e-mail from Cliff Walker that went out  
22 to our e-mail list.

23 Q. Okay. And it looks like it's a forward of an  
24 e-mail from Representative Gina Calanni; is that right?

25 A. Yes.



1 Q. And down on the page marked TDP 44, about  
2 25 percent of the way down the page --

3 A. Uh-huh.

4 Q. -- it says, "Texas Democrats' vote-by-mail  
5 program made the difference between my victory and my  
6 defeat. Without their vote-by-mail initiative, I  
7 wouldn't be where I am today." Did I read that  
8 correctly?

9 A. Yes.

10 Q. And how did TDP know that  
11 Representative Calanni's 113-vote margin of victory was  
12 attributable to Texas Democrats' ballot-by-mail program?

13 A. I mean, this is like everything in an  
14 election. If you win by a small margin, most any  
15 program you did is that margin. We do know in this  
16 district -- I don't know the numbers offhand -- but we  
17 do know that several thousand seniors voted by mail as a  
18 result of the application we mailed them because we  
19 track the senior getting the application through the  
20 mail and mailing it back to their clerk. So because we  
21 did a vote-by-mail program, several thousand seniors  
22 voted in her district; and that number of voters is more  
23 than her margin of victory by a long shot.

24 Q. How do you know that all those voters voted  
25 Democrat -- well, specifically, how do you know that all

1 those voted for Representative Calanni?

2 A. We don't. But I'll elaborate: The chances  
3 are that if you send an application to a person who's  
4 voted in multiple Democratic primaries and then they  
5 vote in a general election, they -- more than likely,  
6 there is probably a high percentage -- in the 85  
7 percentile or above -- that they voted for a Democrat.

8 Parties don't send stuff to opposing  
9 voters. We target and, therefore, the people we sent  
10 the application to almost entirely are people who voted  
11 in the Democratic primaries.

12 Q. And then down at the bottom, the last sentence  
13 says, "Can you make a \$7 contribution to the Texas  
14 Democratic Party so we can send 21 Texans their  
15 application?" Were all of the funds generated by this  
16 e-mail used to send Texans applications to vote a ballot  
17 by mail?

18 MR. GEISE: I'm going to, again, object  
19 on the internal use of fundraising of a political party  
20 as core First Amendment protected and instruct the  
21 witness not to answer on the internal use of funds on  
22 the basis of the First Amendment.

23 A. I decline to answer on advice of counsel.

24 MS. MACKIN: Okay. And so to the extent  
25 that I have anymore questions about the e-mails that

1 were produced that were asking for contributions and  
2 then what those contributions were ultimately used  
3 for --

4 MR. GEISE: Yeah, we're -- the witness is  
5 going to -- I mean, I'm going to instruct the witness  
6 not to answer on the internal financial decisions of the  
7 Texas Democratic Party on the basis of the First  
8 Amendment privilege as going to the core of the First  
9 Amendment.

10 He can talk generally -- the witness --  
11 just so we're clear, I think that if you ask general  
12 questions about how the Texas Democratic Party makes  
13 funding decisions, how they decide where to allocate  
14 funds, the witness can answer at a high level, that that  
15 does not go into specific internal strategy or a  
16 specific use of specific funds.

17 I think the First Amendment protects the  
18 core; but if you want to ask the witness high level, how  
19 does the Texas Democratic Party decide to allocate  
20 funds, how do they decide to allocate funds, even in a  
21 specific year, at a high level, I think that you're  
22 entitled to inquire into that. It's just I think the  
23 specific use of specific funds is core First Amendment  
24 protected by numerous decisions, and I would instruct  
25 the witness not to answer.

1 MS. MACKIN: And is it your position that  
2 the e-mails that were produced which make a specific ask  
3 for a contribution fall within that category?

4 MR. GEISE: Well, I don't think -- I  
5 think that asking once someone sent the Texas Democratic  
6 Party specific funds in response to a specific e-mail,  
7 where did those funds go is core First Amendment  
8 protected by numerous decisions that would go to -- and  
9 even with a Protective Order, a Protective Order in  
10 multiple cases does not entitle you -- it's the same way  
11 it doesn't inquire [sic] you to entitle [sic] into the  
12 attorney-client privilege. It doesn't entitle inquiry  
13 into things that are protected by the core of the First  
14 Amendment. So I would instruct the witness not to  
15 answer.

16 A. Let me answer a general answer so that we're  
17 clear. All fundraising that the Texas Democratic Party  
18 asks donors to make is done in the context of --  
19 typically of: Help us pay for a program, which is what  
20 this is. Help us send out vote-by-mail applications.  
21 By law we cannot dedicate -- if a donor gives us a  
22 hundred dollars and says spend this only on vote by  
23 mail, a donor may not do that. We cannot target their  
24 donation. The Party must and does make decisions on all  
25 of its funds coming in on how to spend. It cannot be

1 directed by the donor to go for a specific candidate or  
2 a specific program. They can donate toward it, and we  
3 can then choose to use it for that program or not.

4 In this particular issue on the specific  
5 question you asked about the \$7 for 21 applications, in  
6 all of these vote-by-mail programs, the cost of the  
7 program is considerably larger than what the individual  
8 donors donate. And it comes from county parties. They  
9 come from candidates. It's come from major donors to  
10 perhaps raise, you know, a quarter million dollars to do  
11 a program like this. The individual \$7 somebody spent  
12 may or may not be used exclusively in that program.  
13 Typically, because it's less than the program, you could  
14 say you give it towards the program; we used it there.  
15 But the donor is not ultimately -- the money is not  
16 directly for mail-outs.

17 MS. MACKIN: Okay. Thank you for that  
18 explanation.

19 Just to make sure that we are clear, to  
20 the extent that I would inquire about other e-mails  
21 produced and about what the funds generated in response  
22 to that e-mail were used for, you would object and  
23 instruct the witness not to answer, Counsel; is that  
24 right?

25 MR. GEISE: Yes. And I would instruct

1 him to answer in the manner that he just did, which is,  
2 I think, that the funds can't be -- even if the donor  
3 wanted to, funds are not, by law, allowed to be put to  
4 X, Y, or Z, which I think he's answered. So I think  
5 he's provided an answer to the question at the level  
6 that we believe Counsel is entitled to inquire into.

7 Q. (BY MS. MACKIN) And, Mr. Maxey, again, just  
8 to be clear, if I were to inquire into the use of funds  
9 in response to a specific e-mail produced today, you  
10 would follow your attorney's instruction not to answer  
11 such questions; is that right?

12 A. That is correct.

13 Q. Okay. Thank you.

14 A. My answer about targeting funds would apply.

15 MS. MACKIN: Okay. I'm going to share  
16 a document with everyone on the chat function marked  
17 TDP 63.

18 Q. (BY MS. MACKIN) Mr. Maxey, please let me know  
19 when you've had a chance to open up that document and  
20 are ready to discuss it.

21 A. All right.

22 Q. Do you recognize this document?

23 A. It's an e-mail from Manny Garcia to our e-mail  
24 list.

25 Q. And this e-mail discusses -- the second



1 sentence of the e-mail reads, "There are about  
2 2.6 million unregistered voters in Texas who are likely  
3 to vote Democratic if registered." Did I read that  
4 correctly?

5 A. That's correct.

6 Q. And what is the source of that statistic?

7 A. There are many groups that do analytics on the  
8 population of the state of Texas. The Texas Legislative  
9 Council does such work, how many people are in Texas,  
10 how many are registered to vote, how many are voting age  
11 population or not. So you take the number, which is  
12 around, I think -- well, I don't know it off the top of  
13 my head -- but there is a bigger number than 2.6 million  
14 people who are unregistered in Texas who are legal  
15 citizens who could register. You can apply a simple  
16 algorithm to it of how many people in the general  
17 population did have similar characteristics of income,  
18 geography, ethnicity, age, those kinds of analytics to  
19 come up with that there's 2.6 million unregistered  
20 Texans who are likely to vote Democratic.

21 Q. And so did TDP come up with this 2.6-million  
22 figure?

23 MR. GEISE: I'm going to object and  
24 instruct the witness to not answer to the extent it's  
25 internal strategic information. I think the witness has

1 provided a broad overview of how that number could be  
2 arrived at -- well, I guess the witness -- you can  
3 answer "yes" or "no." But I think any inquiry other  
4 than that would be prohibited by the First Amendment.

5 Q. (BY MS. MACKIN) To be clear, I'm just trying  
6 to determine the source of this statistic that is  
7 provided in this e-mail. I'm not asking how it was  
8 calculated.

9 A. To my knowledge, this is a number that's come  
10 from a source outside of TDP's staff. We did not crunch  
11 the numbers to get here. This was something that's been  
12 published along the way, and I don't have memory of  
13 where it was published.

14 Q. Fair enough.

15 A. If the Legislative Council comes up with a  
16 number of unregistered Texans and then we -- our data  
17 team could come up with a demographic about what  
18 percentage of those people were likely to be Democrats,  
19 I would expect; but I'm not fully aware.

20 Q. Okay. So this e-mail describes -- well, the  
21 third sentence says, "That's why we're launching a voter  
22 registration program unlike any other in Texas history  
23 by" and then it lists -- there's five bullets underneath  
24 that. The first one says, "Investing in cutting-edge  
25 data programs to turn out new voters." Can you tell me

1 at a high level about those programs, not going into  
2 anything --

3 A. Sure.

4 Q. -- internally sensitive or First Amendment  
5 protected?

6 A. For instance, there's approx- -- there are  
7 tens of thousands of new people moving into Texas every  
8 day from around the country. We know by data source of  
9 where they were registered to vote before they got here,  
10 what their demographics of being a Democrat were, their  
11 sort of data score being Democratic. And so we know  
12 they're in Texas. We know their name and their address  
13 from the post office. And so using cutting-edge data,  
14 we can figure out approximately 30,000 Democrats move to  
15 Texas each month that we need to get registered to vote.  
16 That's one example of using cutting-edge data to target  
17 people who are likely to be Democrats who are  
18 unregistered who need to be registered.

19 We have the same kind of technology to  
20 figure out that when somebody moves from Dallas to  
21 Houston, they are no longer able to vote in general  
22 elections unless they get registered in Harris County  
23 unless they vote a limited ballot, which is highly  
24 difficult to do; and then they won't be able to vote in  
25 down-ballot races. So we use cutting-edge data programs

1 to identify those improperly registered Texans, to get  
2 them registered in their appropriate county.

3 That's it.

4 Q. Okay. Thank you for that.

5 And then the second bullet point says,  
6 "Deploying 1,000 field organizers and canvassers on the  
7 ground to register voters in person." I think we've  
8 talked about this. I think that seems pretty clear on  
9 its face what that is.

10 The third bullet, "Adopting a digital  
11 approach to voter registration through our online hub  
12 MyTexasVotes.com." What is MyTexasVotes.com?

13 A. It's a website maintained by the Texas  
14 Democratic Party that gives basic voting information.  
15 You can look up your precinct on the early vote  
16 locations nearest you, find your voting center or  
17 precinct for election day, get a map to that location,  
18 find out the hours of early voting or hours of voting on  
19 election day. You can check your voter registration.  
20 You can request a mail ballot application. You can  
21 request a voter registration application, or you can  
22 fill out an application online and print it out through  
23 the system that is provided. It's a voter education --  
24 it's an activation website.

25 Q. And where does the data on MyTexasVotes.com

1 come from?

2 A. The Texas Secretary of State, local county  
3 elected officials of polling places.

4 Q. And are you aware that an individual can  
5 request a postage-paid voter registration application be  
6 mailed to them on the Texas Secretary of State's  
7 website?

8 A. When the website works.

9 Q. So are you aware that an individual can --

10 A. Yes, but we are making it -- this is making it  
11 convenient to our voters. A person in Texas can  
12 register to vote by handwriting it out on a napkin and  
13 putting it in an envelope and mailing it in. You don't  
14 have to use the Texas Secretary of State's website.

15 So, yes, you can do it on the Secretary  
16 of State's website. You can do it at MyTexasVotes.com.  
17 You can do it at Vote.org, Register2Vote.com [sic.]  
18 There's lots of places you can register to vote.

19 Q. And you mentioned that MyTexasVotes.com makes  
20 it more convenient or -- I don't remember specifically  
21 what your words were -- but that it can make it more  
22 convenient for some folks. Can you explain that to me a  
23 little more? How does it make it more convenient?

24 A. Well, every -- during an election season,  
25 every piece of e-mail, every mail-a-candidate-across-

1 Texas, a thousand Democratic candidates, everything on  
2 it says, "For voter information, go to MyTexasVotes."

3 So they go there. They find everything  
4 they might need to know in one location. They're not  
5 searching a very unfriendly website at the Secretary of  
6 State or in -- let's just say -- I passed legislation  
7 this last session -- I got legislation passed, drafted  
8 and then lobbied it, to require election clerks to  
9 actually have a website with their voting locations  
10 because approximately a third of the counties in Texas  
11 didn't post that information.

12 So MyTexasVotes is a way for us to tell  
13 anybody that we come in contact with during an election  
14 season, "If you need any of this information, where to  
15 vote, when to vote, click on MyTexasVotes; and you can  
16 find it there."

17 Q. Okay. And then the fourth bullet says,  
18 "Mailing hundreds of thousands of voter registration  
19 cards." What do you mean -- what does the phrase "voter  
20 registration cards" mean in this context?

21 A. Voter applications. A hard-copy piece of  
22 paper that a person signs, puts in a postage-paid  
23 envelope, and sends to their voter registrar.

24 Q. And how does the Texas Democratic Party  
25 determine whom to mail a voter registration application



1 to?

2 A. People who we believe are not registered at  
3 their current address.

4 Q. Based on your data analytics?

5 A. Yes.

6 Q. And why not just go on the Secretary of  
7 State's website and request that the State send a voter  
8 registration application to their -- to those folks?

9 A. Obviously, because, A, the voter would have to  
10 find that SOS link, print out the paper -- and many  
11 voters don't own a printer or print --

12 Q. No, no, no, no. I'm talking about the link on  
13 the Secretary of State's website where one can request  
14 that a postage-paid application be mailed --

15 A. A, have the computer to do that. But when you  
16 get there, you can ask them, yes, to send you a form.  
17 It is a laborious process. It takes a week or more for  
18 people to get that piece of paper. Then they have to  
19 fill it out and mail it in.

20 Often, we -- most people register -- I  
21 mean, a considerable amount of people register in the  
22 last weeks before the registration deadline. And asking  
23 the Secretary of State to send a blank piece of paper to  
24 you for you to fill out and then send back in, to get it  
25 in before that deadline often causes, let's say, tens of

1 thousands of people not to make the deadline.

2 So we make a decision of sending a  
3 registration card in August to people that we know are  
4 not registered to vote already, for them to have  
5 convenience to fill it out. That's what you call "how  
6 you win an election." We don't wait for people to  
7 figure it out. We make it available to them so that  
8 they can take advantage of it by just filling in their  
9 personal data, signing it, putting it in a postage-paid  
10 envelope coming with the application.

11 In other words, we're not waiting for  
12 people to ask. We are sending people who are unaware  
13 that they need to register to vote because they have not  
14 been educated. Remember that voter education project?  
15 "Hey, you have to get on a registration list. We're not  
16 a state with automatic voter registration. I'm sure you  
17 vote -- you moved here from Washington, but you're not  
18 going to automatically be on the voter registration  
19 roles. So you need to fill out a piece of paper."

20 That's why we mail it to them and not  
21 just wait for people. If we waited for people, then the  
22 voter registration would be sorely lacking in Texas.

23 Q. So --

24 A. And, frankly, the majority of people in Texas,  
25 just so I can say this again, register when they get

1 their driver's license. That is the Number 1 place that  
2 people register to vote for the first time; and they  
3 could update their registration if the State of Texas  
4 was following the federal law.

5 Q. How do you know that the majority of people  
6 register for the first time in connection with getting a  
7 driver's license?

8 A. The Texas Secretary of State announced that.

9 Q. You mentioned a moment ago something about how  
10 tens or hundreds of thousands of people would miss the  
11 voter registration deadline by attempting to request a  
12 form be mailed to them from the Secretary of State's  
13 office. Did I understand your testimony correctly?

14 A. The deadline is 30 days before an election,  
15 and we are depending on people to ask the Secretary of  
16 State to send them by bulk e-mail a voter registration  
17 paper form. And a person asks for that a week before  
18 the deadline. The Secretary of State takes  
19 approximately a week to mail that application to them.  
20 They get it. If they fill it out and drop it in the  
21 mail, it will be after the deadline. And across the  
22 state of Texas in every general election, there are  
23 thousands upon thousands of people whose application  
24 comes in on the 29th, the 28th, the 27th, the 26th day  
25 before an election. They all get a letter saying,

1 "Sorry. You're not registered to vote because you  
2 didn't hit the magic 30-day deadline."

3 Q. And how do you know that?

4 A. How do I know that?

5 Q. Yes.

6 A. Because the election -- every -- I hear  
7 anecdotally, as somebody who deals with voter protection  
8 on our hotline, we have hundreds of people calling us  
9 and say, "Well, I mailed my application."

10 And we investigate with the registrar,  
11 "Did you receive an application from Joe Smith?"

12 And they say, "Yes, we received it 28  
13 days before the election. It was after the deadline."

14 So I've been doing this for 50 years.  
15 Every election cycle there are people who are rejected  
16 because their application comes in too late.

17 It is a known fact. Any election  
18 administrator talks about this problem. If we had  
19 automatic voter registration and online voter  
20 registration, we wouldn't have this problem; but, you  
21 know, that's an argument that we've made to the  
22 Legislature and others about depending on people mailing  
23 a signed piece of paper.

24 Q. Is it your testimony that if Texas had online  
25 voter registration, people would not submit their voter

1 registration applications after the deadline?

2 A. No. I'm going to say that the problem of the  
3 U.S. Post Office delaying delivering an application  
4 would go away.

5 Q. How does the U.S. Post Office delay delivery  
6 of a voter registration application?

7 A. Because it takes -- it's not instantaneous.  
8 If you could register online, when you hit submit, you'd  
9 be registered to vote. If I have to take a piece of  
10 paper on three days before the deadline and drop it in  
11 the mail -- and in rural Texas, it typically takes  
12 something that's mailed in Taylor, Texas to go to  
13 Georgetown, 5 miles away or 8 miles away, it has to go  
14 first to Dallas and back to Georgetown; and it takes  
15 three days. So that person mailing it two days before  
16 the deadline won't get registered because the post  
17 office process of delivering mail takes more than  
18 instantaneous. Online voter registration is  
19 instantaneous. People --

20 Q. Where?

21 A. Huh?

22 Q. Where?

23 A. Thirty-eight states where people register  
24 online.

25 Q. It's instantaneous?

1           A.    As soon as you fill it in and hit "submit,"  
2 you are registered to vote -- well, I mean, let me be  
3 technical. As soon as you do it, your application has  
4 met the deadline. The clerk then makes sure that you  
5 are who you say you are and does all of the required  
6 stuff, but you have met the 30-day deadline when you  
7 submit it.

8           Q.    Do all of those states have a 30-day deadline?

9           A.    No, some of them have automatic registration.  
10 You're on the list when you submit it to vote. Texas is  
11 the most archaic voter registration state in the United  
12 States. It has more impediments than any other state  
13 imposed by Republicans for voter suppression.

14          Q.    What is the basis for that statement?

15          A.    Fifty years of personal knowledge. Going back  
16 to almost 50 years ago when I was turned away from being  
17 a deputy voter registrar because I was a college  
18 student, a federal lawsuit was filed by university  
19 students at Prairie View. I was at Sam Houston State.  
20 I go back 50 years knowing about the problems of voter  
21 registration in Texas that people in the other -- at  
22 least another 40 states don't have, including --

23          Q.    This is based on your anecdotal experience in  
24 the state of Texas, right?

25          A.    My personal. Not anecdotal, my personal



1 experience.

2 Q. Sure.

3 A. You don't have to be deputized to register  
4 someone to vote in almost any state in the country other  
5 than Texas. I've trained thousands of people to be  
6 deputy voter --

7 Q. Okay. Mr. Maxey, I appreciate it. I haven't  
8 asked a question. So if you could please just let me  
9 ask a question and then answer, I would appreciate that.

10 A. Glad to.

11 Q. Thank you.

12 MS. MACKIN: All right. I am going to  
13 share with everyone TDP 73.

14 Q. (BY MS. MACKIN) And please take the time you  
15 need to review it and let me know when you're ready to  
16 discuss it.

17 A. Okay.

18 Q. Do you recognize this document?

19 A. An e-mail from me to our e-mail list.

20 Q. Okay. Dated February 7th, 2020?

21 A. Yes.

22 Q. Okay. And this e-mail says, "We kicked off  
23 our Voter Protection Fund so we can expand Texas voters  
24 access to the ballot box." Can you please tell me at a  
25 high level what the Texas Democratic Party's Voter

1 Protection Fund is?

2 A. It is a generic way to -- euphemistic way to  
3 talk about money that we expend to do what is commonly  
4 called "voter protection" being done by campaigns and  
5 candidates and parties everywhere. Voter protection  
6 includes having things like a hotline where a voter can  
7 call in and say, "I'm not on the voter registration  
8 list. Can you help me figure out why I'm not registered  
9 to vote?" And we then do the investigation and assist  
10 that voter.

11 And so voters call in. They call in and  
12 ask about where their polling place is, hours of voting.  
13 All of the information that we have on MyTexasVotes we  
14 answer orally by phone call.

15 We have lawyers stationed around Texas  
16 during voting periods that can go in person to a polling  
17 place or to a clerk's office and assist a voter in  
18 making sure their right to vote is not infringed upon.

19 We train volunteers in every county to  
20 talk to voters, perhaps standing outside of polling  
21 places, even, to give people information; or if they're  
22 having problems, make sure that we rectify those  
23 problems while the polls are still open.

24 All those things are generically called  
25 voter protection; and that's why we raise money, to have

1 a staff of people.

2 Q. Okay. Thank you. That's all I have on that  
3 document. I'm going to close out of that.

4 MS. MACKIN: And then I'm going to share  
5 with everyone the document marked TDP 139, still a part  
6 of Exhibit 2, just as all of these documents are.  
7 Actually you know what? Rather than -- there we go.

8 Q. (BY MS. MACKIN) Mr. Maxey, please feel free  
9 to take your time to review the document and let me know  
10 when you're ready to discuss it.

11 A. It's taking forever to load.

12 Q. It's a bigger one than some of the previous  
13 ones.

14 A. It's about halfway.

15 Okay.

16 Q. All right. And if I can direct your attention  
17 to the page marked TDP 140, there's a bit of white text  
18 that's offset by a shadow of a ballot box behind it that  
19 says, "Looking forward to 2020. There remains 2.6 [sic]  
20 unregistered voters in Texas who are likely to vote  
21 Democrat if registered." Just to clarify, that's based  
22 on the same information as the e-mail we talked about  
23 earlier that provided that 2.6-million figure?

24 A. Yes.

25 Q. Okay. And then a little ways down the page,

1 right under that graphic, actually, it says, "During the  
2 2018 midterm elections, thanks to our voter registration  
3 initiatives, we helped 133,000 Democratic Texans  
4 register shortly before the registration deadline and  
5 120,000 of those who registered voted." Did I read that  
6 correctly?

7 A. You did.

8 Q. How did the Texas Democratic Party help  
9 133,000 Democratic Texans register shortly before the  
10 registration deadline in the 2018 midterms?

11 A. We mailed out approximately a half million  
12 voter registration applications to unregistered Texans  
13 and tracked that 133,000 of those people returned those  
14 applications to their voter registration clerk. And  
15 after the election, we checked the voter rolls to see  
16 how many of the 133 people voted; and 120,000 of them  
17 actually cast a ballot.

18 Q. And in order to track who returned an app- --  
19 well, how does the Texas Democratic Party track which  
20 voters returned an application that the TDP sent the  
21 voter to the county registrar?

22 A. We use a program called Intelligent, I think,  
23 of the U.S. Postal Service, by putting a bar code on the  
24 application. And the Post Office tells us when the  
25 voter has mailed that application to their clerk. It's

1 a business application that almost any direct mail  
2 company -- I mean, direct mail that a business does uses  
3 to track whether somebody has returned a payment or, in  
4 our case, returned a voter registration application.

5 Q. And so I know that after the election, it's  
6 publicly available to find out whether somebody voted in  
7 that election. Is there a way to determine -- TDP can  
8 determine that the application they sent was then sent  
9 on to the county registrar. Can they determine whether  
10 or not the registrar accepted the application and  
11 registered the voter?

12 A. Yes. We can -- we get a list of newly  
13 registered voters.

14 Q. Okay.

15 A. And those that have been processed, we buy  
16 those weekly -- or pay the fee to get them from the  
17 Secretary of State weekly, put them in our file so we  
18 can know that they're on the list. If they're not on  
19 the list, we inquire -- if there's time left. Typically  
20 this is happening right at the election. But if we're  
21 doing this long term, if the registration application,  
22 we have tracked that it was returned but they don't show  
23 up on the roll, then we can inquire with the voter  
24 and/or the registrar the reason the application was  
25 rejected and get that person re-registered correctly.

1 Q. And I apologize if we've already covered this.  
2 I just want to make sure I understand. And it's getting  
3 a little close to lunch, so my blood sugar is a little  
4 lower; but before you send out the voter registration  
5 applications, how do you determine whether an individual  
6 is already registered? Where does that information come  
7 from?

8 A. It's simple data analytics. You take the list  
9 you're going to mail to and you plop it against the  
10 people who are on the list; and if they're on the list,  
11 you remove them. And the people left are the people  
12 that are not registered.

13 Q. Okay. Thank you.

14 All right. Let's scroll down to the next  
15 page, TDP 141.

16 A. Okay.

17 Q. So this mentions, at the very top, that an  
18 estimated 2.6 million Texans are likely to vote  
19 Democratic if they are registered. How does the Texas  
20 Democratic Party intend to try to register those folks?

21 MR. GEISE: And, again, I'm just going to  
22 instruct the witness to answer at a high level without  
23 infringing on anything that's First Amendment protected.

24 A. We will (inaudible.)

25 (Reporter requests repeat.)



1 THE WITNESS: Sorry. I had a pillow on  
2 my lap, and it probably covered up the...

3 A. We will train tens of thousands of deputy --  
4 or get trained through their clerk tens of thousands of  
5 deputy registrars who will register people in their  
6 communities. We will have tabling on college campuses.  
7 We do a program right on the deadline tabling in  
8 probably 5- or 6,000 locations around Texas all day  
9 long. We will mail probably during this cycle close to  
10 a million voter registration cards or applications out  
11 to people we perceive that are unregistered in the  
12 program we just talked about. We will direct people  
13 through social media, online digital ads to  
14 RegisterTexas.com, a voter registration app that we  
15 have.

16 We will have people phoning -- or  
17 organizers going where -- you know, our LGBT organizer  
18 will go to LGBT events; our Muslim organizer will go to  
19 Muslim events and ask people to register to vote.

20 So there are literally dozens upon dozens  
21 of voter contact ways. Any and everything that we do,  
22 there will be a voter registration component to it  
23 between now and the 30-day deadline before the November  
24 election.

25 Q. What is RegisterTexas.com? You mentioned it's

1 a voter registration application, but can you tell me a  
2 little bit more about it?

3 A. It's an online system where a person goes and  
4 fills out their voter registration information, their  
5 name, their address; and it will then -- when they  
6 submit it, we will mail them a pre-populated voter  
7 registration application with the information they have  
8 given us. When they get it, they sign it, put it in a  
9 postage-paid envelope and drop it in the mail. It's  
10 already addressed to their voter registrar.

11 It's a shortcut for those people who  
12 don't either own a printer, an envelope, or a stamp  
13 because the biggest impediment for people to registering  
14 on their own without a postage-paid envelope is the  
15 inability to have a postage stamp. People just don't  
16 regularly have those in this day and age or have an  
17 envelope, even, in this day and age, especially younger  
18 voters. So this is a way to: Give us your information.  
19 We will send you the application filled out. You just  
20 have to add in the personal information, like your  
21 driver's license number that we don't have, those kinds  
22 of things, IDing things, sign it, date it, put in the  
23 postage-paid envelope.

24 Q. About how long does that process take? Like,  
25 if I went on RegisterTexas.com and filled it out, how

1 long, approximately, would it be until I got my  
2 application in the mail to sign and then forward along  
3 in the postage-paid envelope?

4 A. We're mailing them out weekly. We will do  
5 that all the way up until a week before the election.

6 Q. Okay.

7 A. And most of this we wouldn't have to do if  
8 people could update their registration when people got  
9 their driver's license updated.

10 MS. MACKIN: I'm going to object to the  
11 last sentence as nonresponsive to a question that I've  
12 asked.

13 Q (BY MS. MACKIN) Lower down on page TDP 141 --

14 MR. GEISE: Does it make sense to take a  
15 break after we're done with this document?

16 MS. MACKIN: Sure, yes.

17 MR. GEISE: Okay.

18 MS. MACKIN: Good idea. And I've only  
19 got ten minutes, maximum, left on it, maybe less.

20 MR. GEISE: Okay.

21 Q (BY MS. MACKIN) So it mentions that -- sorry.

22 MS. MACKIN: I'm used to doing this on  
23 paper, and the computer is an adjustment. I know I'm  
24 making this, like, inquisitive face into the camera.

25 MR. GEISE: It's a whole different

1 process. I got you.

2 Q. (BY MS. MACKIN) It's this first full  
3 paragraph. It says, "Through the shifting demographics  
4 in Texas, amplified by Texas Democrats' aggressive voter  
5 registration initiative, we anticipate the voter rolls  
6 will swell to upwards of 18 million registered voters in  
7 2020." And without inquiring into any internal  
8 proprietary information, can you tell me the source of  
9 that projection?

10 A. I think it's -- if you read down this page,  
11 there's references to TargetSmart, which is an analytics  
12 firm --

13 Q. I see.

14 A. -- that does data around registration. You  
15 know, they later say that 2.6 [sic] people registered  
16 since 2016. And you can do analysis on how many people  
17 were registered at the beginning of this election cycle,  
18 how many people are registering per month with the  
19 Secretary of State, how many potential people are moving  
20 in the state, the growth of population, the number of  
21 18-year-old -- people coming onto the rolls who are 18,  
22 the number of people who are dying off the roles. You  
23 do all that analysis, and you come up with an estimate  
24 that we will move from the approximately 16 million that  
25 were registered in 2018 to 18 million by 2020.

1 Q. All right.

2 A. The hard part of that will be the efforts of  
3 the Democratic Party and the Republican Party to add new  
4 people to the program, the kind of programs that we run  
5 and they run. Plus, as I said before, the number of  
6 people moving into the state or changing address being  
7 registered through the DPS.

8 Q. All right. I'd like to move down to TDP 142,  
9 just the next page.

10 A. Uh-huh.

11 Q. What does this show, Mr. Maxey?

12 A. It's an analysis of legislative districts and  
13 those we -- let me make sure I'm doing this -- it's sort  
14 of the Democratic voting strength by legislative  
15 district and showing that there are 18 districts that  
16 have -- potentially can flip to be Democratic districts  
17 in the 2020 election if the registration trends and  
18 voter turnout (inaudible.)

19 (Reporter requests repeat.)

20 THE WITNESS: Voter turnout trends are  
21 what we hope they are.

22 Q. (BY MS. MACKIN) And just to be clear, this  
23 refers to State House Districts?

24 A. Yes.

25 Q. Okay. And then scrolling down to the next

1 page, TDP 143, what does this page show?

2 A. The same kind of analysis, potential new  
3 Democrats by Congressional Districts.

4 Q. All right. And then down to page 1 -- well,  
5 actually -- page TDP 147, the second-to-last paragraph.

6 A. The one, "That's why we're coming together"?

7 Q. It begins, In January 2020."

8 A. Okay. I was on 148. All right.

9 Q. So it talks about a lawsuit challenging an  
10 unconstitutional electronic signature ban spearheaded by  
11 the Texas Secretary of State. Do you know what that is  
12 a reference to?

13 A. Yes.

14 Q. And what is that a reference to?

15 A. The Secretary of State has made a ruling that  
16 a person who signs a voter registration application and  
17 then scans it and mails it -- e-mails it in has to be  
18 rejected (inaudible.)

19 (Reporter requests repeat.)

20 THE WITNESS: Because it's not wet ink.

21 Q. (BY MS. MACKIN) And what ruling is that? You  
22 referenced a ruling by the Secretary of State.

23 MR. GEISE: And I'm just going to object  
24 because it calls for a legal conclusion, but you can  
25 answer.



1           A.     In 2018 an organization called Vote.org  
2 suggested to Texas voters that they could fill out an  
3 application, take a picture of their signature, place  
4 that picture on the application, attach it to the  
5 application, and e-mail it in, which complied with all  
6 state law, as I understood it at this time, that it was  
7 an application with a signature on it. And the  
8 Secretary of State issued a ruling at that point in time  
9 or told Vote.org or election administrators not to  
10 accept those apps -- voter registrars not to accept  
11 applications because there was not wet ink on the paper.

12           Q.     Okay.

13                   MS. MACKIN: All right. That's all I  
14 have on this document. So if we want to break for  
15 lunch, how long do folks need? I can be flexible. I  
16 think maybe somewhere between one and two hours left for  
17 me today on this depo.

18                   MR. GEISE: Okay. Glen, how long do you  
19 want for lunch? I mean, I can be pretty -- an hour,  
20 half an hour, 45? It's up to you.

21                   THE WITNESS: I can eat a sandwich in 20.

22                   MR. GEISE: So let's do -- half an hour's  
23 fine by me if it's fine by everyone else.

24                   MS. BRANCH: Yep, half an hour sounds  
25 good. Is that okay with you, Anna?

1 MS. MACKIN: Can I add, like, five  
2 minutes and we come back at 1:00, just so we make it a  
3 round number?

4 MR. GEISE: Yeah, that's perfect.

5 MS. MACKIN: I'm ordering my Uber Eats  
6 right now.

7 MR. GEISE: Well, if you need more  
8 time -- I mean, if you need more time, that's totally --  
9 we can do 45 or whatever you want to do. 1:15?

10 MS. MACKIN: How about we plan on 1:15  
11 just to be safe?

12 MR. GEISE: Yeah, that works.

13 MS. MACKIN: Appreciate it.

14 MR. GEISE: Yeah.

15 THE REPORTER: We're going off the record  
16 at 12:25 p.m.

17 (Off the record from 12:25 to 1:18 p.m.)

18 THE REPORTER: Going back on the record  
19 at 1:18 p.m.

20 MS. MACKIN: All right. I'm going to  
21 share a document with everyone in the chat box, marked  
22 TDP 92.

23 Q (BY MS. MACKIN) Mr. Maxey, please let me know  
24 when you've had a chance to pull up that document and  
25 take a look at it.

1 A. All right.

2 Q. Do you recognize this document?

3 A. It's an e-mail sent by Manny Garcia to the TDP  
4 e-mail list.

5 Q. On December 31st, 2019, correct?

6 A. Correct.

7 Q. All right. And down about halfway through the  
8 e-mail, underneath Protecting & Expanding the Vote, the  
9 last sentence says, "We aren't done yet, but we have big  
10 voting rights news to announce soon." Did I read that  
11 correctly?

12 A. You did.

13 Q. Okay. Has that big voting rights news been  
14 announced yet?

15 A. Yes.

16 Q. And what was that voting rights news?

17 A. That news was that FairFight.org would be  
18 giving the Texas Democratic Party a major grant to hire  
19 voter protection staffers.

20 Q. And what are those voter protection staffers  
21 that are funded by the FairFight.org grant working on?

22 A. All of the voter protection things that we've  
23 already put in the record that we do.

24 Q. And so those would be the hotline?

25 A. Hotline, poll watchers, working with the

1 county clerks and election administrator on election  
2 procedures. That department is working with election  
3 administrators and folks all over the state right now in  
4 how to handle the Democratic primary election that I  
5 run, but they are working on the logistics to make  
6 polling places vote-by-mail accessible during the  
7 COVID-19 crisis, those kinds of activities.

8 Q. All right. Thank you. That's all I have on  
9 that document.

10 MS. MACKIN: I'm now going to share a  
11 link in the chat box to a document marked TDP 129.

12 Q. (BY MS. MACKIN) Please let me know when  
13 you've had a chance to pull that up and are ready to  
14 discuss it.

15 A. Okay.

16 Q. And this is an e-mail dated September --

17 MR. GEISE: It took me a second to do it,  
18 too.

19 MS. MACKIN: Counting on my fingers.

20 Q. -- September 24th, 2019 from Kassandra Aleman  
21 sent out to the TDP Listserv; is that right?

22 A. Correct.

23 Q. Okay. Down under that signature block, it  
24 says in bold text, "Don't forget to register to vote or  
25 share this e-mail with friends and family to help them

1 register. Click here to update your registration today.  
2 It only takes two minutes." Do you know what that  
3 "click here" language linked to?

4 A. I'm going to surmise because I can't click the  
5 link to figure that out, but I imagine it goes to our  
6 website that links to Register2Vote.org, which is the  
7 same kind of system as our RegisterTexas.org -- or dot  
8 com that we just talked about where people can fill out  
9 an application, print it out, and mail it in.

10 MR. GEISE: And, Counsel, we can check.  
11 I don't know if it's still live or if I could look and  
12 see if there's a way to get back to you on what that  
13 was, after.

14 MS. MACKIN: Okay. We'd appreciate that.  
15 Thank you.

16 A. The only thing that we would have had live in  
17 September of 2019 is the Register2Vote.org site that's  
18 branded to the TDP through an agreement. And that's  
19 where they fill in their information, Register2Vote.org  
20 mails them an application, which they sign and put in  
21 their personal ID information, put it in a postage-paid  
22 envelope and send to the clerk to register.

23 Q. (BY MS. MACKIN) And how is Register2Vote.org  
24 different from the other site that we were discussing  
25 before lunch? I'm blanking on the URL. I think it was

1 RegisterMe.com or something like that.

2 A. Register, the number 2, vote dot org.

3 Q. Okay.

4 A. It's an organization that does voter  
5 registration kind of work. We have a contractual  
6 agreement as a vendor with them. So they have a site  
7 where people can do this, register. Anybody can  
8 register to vote, Democrats or Republicans. And we've  
9 contracted to have a version of that branded through the  
10 Texas Democratic Party through a contractual agreement.

11 Q. And what is the purpose of having both of  
12 these systems?

13 A. The first one was one we just branded and we  
14 wanted to make it something that looked more specific to  
15 the Texas Democratic Party and also that we would be  
16 able to see the data of who registered through the data  
17 agreement and contractual stuff. So it's a new  
18 iteration of the old system that's probably  
19 discontinued.

20 Q. Okay. And are both systems still in operation  
21 today, or is it just Register2Vote.org?

22 A. Both are in operation today.

23 Q. And the Texas Democratic --

24 A. We're pointing people to the new system. In  
25 the past it was going there, and we didn't know who was



1 registering because it was a tool of Register2Vote.org  
2 that we were just pushing people to. Now, they're going  
3 through our system; and we have a data-sharing agreement  
4 by contract to know who has filled in the applications.

5 Q. And what information does the Texas Democratic  
6 Party receive about who has filled in those  
7 applications?

8 MR. GEISE: I'm just going to -- on the  
9 First Amendment -- I mean -- yeah, I guess -- I think  
10 you can answer broadly.

11 I'll withdraw the objection. That's  
12 fine.

13 A. It's the information that's legally available  
14 if I were to go to the Secretary of State and ask for a  
15 list of voter registrars, the information they could  
16 give us, their name, their address, their date of birth.  
17 That's about it on the voter registration.

18 Q. (BY MS. MACKIN) That's it, first and last  
19 name, address, and date of birth?

20 A. Yeah. I mean, the Secretary of State does not  
21 give us, you know, the driver's license, the last four  
22 of Social. Any of that personal ID is prohibited by law  
23 to be shared, so we never collect it. We are very  
24 careful not to ever collect things that would be  
25 prohibited if we asked the Secretary of State to give

1 stuff off of the system.

2 Q. And so just so I'm clear, under the data-  
3 sharing agreement with Register2Vote.org, y'all collect  
4 first and last name, address, and date of birth on the  
5 individuals and no other information?

6 A. No. We get their phone number and e-mail, but  
7 that is done prior to the person asking to fill out the  
8 form. We ask, "What's your e-mail? What's your phone  
9 number?" And then we -- the question is, "Would you  
10 like to register to vote?" So if it had been asked in  
11 a different manner, the e-mail and phone number -- or  
12 the phone number because the e-mails are not on the  
13 registration applications -- I guess phone numbers  
14 aren't, either -- they may be; I can't remember. But if  
15 we were getting them after they registered and signed  
16 it, then that would be illegal; but we ask up front  
17 before they fill it out.

18 Q. That's all I have on that document. Thank  
19 you, Mr. Maxey.

20 MS. MACKIN: I am going to share with  
21 everyone a file marked TDP 157.

22 Q. (BY MS. MACKIN) And, if you could, please let  
23 me know when you have been able to pull up that document  
24 and are ready to discuss it.

25 A. Okay. All right.

1 Q. Do you recognize this document?

2 MR. GEISE: I'm sorry, Counsel. This was  
3 meant to -- sorry. I realize that this document -- we  
4 can produce a better version of this, but we can talk  
5 about that later.

6 MS. MACKIN: Thank you. I wasn't --

7 A. I recognize it. It's a screenshot of  
8 something that pops up when you go to the page on our  
9 website about Democratic leaders. It's what's called a  
10 pop-up. Its asks people to give some money.

11 Q (BY MS. MACKIN) And do the identities of the  
12 Democratic leaders appear on this copy?

13 A. No, because it's a screenshot. These are all  
14 links to our website.

15 Q. Okay.

16 MR. GEISE: And I think for maybe three  
17 of them -- we can talk after. I think for three of  
18 these we are providing in response to requests things  
19 that were meant to be screenshots of the website; and  
20 maybe if we provide the address, you guys would know  
21 that address and go to it and that will -- rather than  
22 trying to figure out a technical way to produce it so it  
23 shows, we can just give that to you. But I have a list  
24 of those, and we can figure that out after.

25 MS. MACKIN: Okay. Thank you. I

1 appreciate that.

2 All right. I'm sharing with everyone a  
3 file titled TDP 164.

4 Q (BY MS. MACKIN) And, Mr. Maxey, please let me  
5 know when you have that up on the screen and are ready  
6 to discuss it.

7 A. A very slow download.

8 Q. It's a lengthier one of the files.

9 A. I got it.

10 Q. All right. Do you recognize this document,  
11 Mr. Maxey?

12 A. A screenshot of our website on the section  
13 dealing with our platform. It has the platform spelled  
14 out.

15 Q. Okay. Is this the current version of the  
16 Texas Democratic Party platform?

17 A. The version -- the platform adopted at the  
18 2018 Democratic State Convention. We'll adopt a new one  
19 in June of this year in our virtual state convention.

20 Q. You will adopt a new one in June of this year,  
21 you said?

22 A. Every (inaudible.)

23 (Reporter requests repeat.)

24 THE WITNESS: Every two years at our  
25 biennial state convention, we update our platform.

1 Q. (BY MS. MACKIN) And so is TDP 164 an accurate  
2 reflection of the current Texas Democratic Party  
3 platform?

4 A. (Inaudible.)

5 Q. I'm sorry. Did you -- you broke up a little  
6 bit.

7 MR. GEISE: I think he said "verbatim."

8 THE WITNESS: Verbatim.

9 MS. MACKIN: Thank you.

10 Q. (BY MS. MACKIN) And so it would be a fair and  
11 accurate representation of TDP's positions on issues?

12 A. Our values and positions on legislative and  
13 policy issues, yes.

14 Q. Okay. Thank you for that. That's all I have  
15 on that document.

16 MS. MACKIN: I am sharing with everyone  
17 TDP 256.

18 Q. (BY MS. MACKIN) And please let me know when  
19 you have that pulled up and are ready to discuss it.

20 A. I've got it.

21 Q. Do you recognize this document?

22 A. It's an e-mail from Cliff Walker, our Deputy  
23 Section Director, to our e-mail list.

24 Q. And how would you describe this e-mail? What  
25 type of activity by the Texas Democratic Party would you

1 say that this falls under?

2 A. Organizing. This is going out from -- to our  
3 list about our organizing efforts in the -- when  
4 COVID-19 hit, our organizers who were doing door-to-door  
5 stuff were sort of sidelined and we've gone into more of  
6 an e-mail online organizing, asking people to go into  
7 what we call Connect Texas, where there are local people  
8 who are working in their communities -- volunteering to  
9 work in their communities around educating people about  
10 public health, who are doing wellness checks of senior  
11 citizens who are Democratic voters and talking to them,  
12 all in the mode of checking on them, getting them  
13 COVID-19 information, where appropriate, and asking if  
14 they're registered to vote or they need a vote-by-mail  
15 application, and other kinds of things that we can do in  
16 the age of COVID-19, Connect Texas.

17 Q. Thank you for that. I think that's all I have  
18 on documents.

19 I want to follow up on a couple of more  
20 points. Is TDP a membership organization?

21 A. Yes.

22 MR. GEISE: I'm just going to object to  
23 legal conclusion. You can answer.

24 Q. (BY MS. MACKIN) And who are TDP's members?

25 MR. GEISE: Same objection. You can



1 answer.

2 THE WITNESS: And so you say objection; I  
3 can't answer?

4 MR. GEISE: No, I said you can answer. I  
5 said same objection to a legal conclusion, but you can  
6 answer.

7 A. The Texas Election Code states that members of  
8 a political party are the voters who cast a ballot in  
9 their primary election or sign an Affidavit of  
10 Affiliation with a Party -- it's spelled out in the  
11 Election Code -- with a Party officer. And so our  
12 members, in a legal sense, are approximately 2,084,000  
13 Texans who voted in the March 3rd Democratic primary.

14 Q. (BY MS. MACKIN) Does TDP maintain a list of  
15 those members?

16 A. They are in our voter file as having cast a  
17 ballot. They are -- we don't deal with them as a  
18 membership list on a regular basis. They are legally  
19 members.

20 MR. GEISE: And I think the question  
21 asked whether or not there's a membership list. I think  
22 any further inquiry into membership is core First  
23 Amendment protected under a number of the cases.  
24 (Inaudible.)

25 THE WITNESS: Can I just say that there's

1 feedback when Mr. Geise is speaking? Are y'all hearing  
2 it?

3 MS. MACKIN: I was hearing it.

4 THE REPORTER: I'm sorry, Mr. Geise. I  
5 can't hear you now.

6 MR. GEISE: Can you hear me?

7 THE REPORTER: It's still very staticky.

8 MS. BRANCH: Can you try it -- we can't  
9 hear you. Can you try it without the headphones? Will  
10 that help?

11 For what it's worth, I think there was an  
12 objection to form, legal conclusion, and --

13 MR. GEISE: I think I fixed it now.

14 THE WITNESS: Yeah.

15 MR. GEISE: You can hear me?

16 THE WITNESS: Yes.

17 MR. GEISE: (Inaudible.) You can't hear  
18 me?

19 THE REPORTER: It's still very staticky  
20 on my end.

21 MR. GEISE: Does this work better?

22 MS. MACKIN: I'm getting a lot of static,  
23 still, as well.

24 MR. GEISE: Okay. Well, I can try to  
25 change it to --

1 MS. MACKIN: Well, wait. That just got a  
2 little better.

3 MR. GEISE: Yeah. Okay.

4 THE VIDEOGRAPHER: It's still there in  
5 the background.

6 MR. GEISE: I mean, I can try to use my  
7 laptop microphone and see if that would improve it. Let  
8 me try switching to that.

9 Is this better?

10 THE WITNESS: Yes.

11 MR. GEISE: Okay. Well, I will listen in  
12 on the headset unless, you know, it kind of breaks up;  
13 and I will talk through my PC microphone. So hopefully  
14 you don't hear my cat in the background too much.

15 MS. MACKIN: That's much better. You  
16 just -- if you could -- I can still hear you, but it's a  
17 lot quieter. So if you want to make a forceful  
18 objection, you might speak up a little bit more.

19 MR. GEISE: All right. I'll try to --  
20 okay. Well, I will awkwardly be close to the  
21 microphone.

22 MS. MACKIN: There is nothing about this  
23 process that is not awkward, so.

24 MR. GEISE: So, anyways, I'm sorry.  
25 Sorry for that interruption.

1 Q (BY MS. MACKIN) All right. Mr. Maxey, can  
2 the Texas Democratic Party apportion a specific cost to  
3 each new voter that it registers?

4 A. I think that's an impossibility because it's  
5 wrapped up in multiple levels of employee salaries,  
6 whether that message went through the technology, the  
7 data targeting, who we talked to, the communication  
8 method that happened -- it could have been through a  
9 text message. It could have been through a piece of  
10 mail. It could have been through -- you know, so  
11 pulling all that apart is just an impossibility. I  
12 mean, to allocate some of my salary, just as Luke  
13 Warford, as the voter expansion, the data team's salary,  
14 the communications salary, the end cost to mail  
15 something, the postage cost if we mailed it. You know,  
16 I guess you could go through and figure out the cost of  
17 a particular mailing, but not the overall cost by voter.

18 Q. When the Texas Democratic Party reaches out to  
19 someone to attempt to register them to vote, do you  
20 check whether that individual has engaged in an online  
21 transaction with DPS?

22 A. No, we would not know that.

23 Q. Does the Texas Democratic Party believe that  
24 any increase in voter registrations will benefit  
25 Democrats?

1           A.     I think that's pretty much a given that the  
2 more people that vote, the more likelihood -- I mean,  
3 this is my opinion now, if that's what you're asking.  
4 If you look at the demographics of the people that we  
5 believe are unregistered in Texas, they are  
6 overwhelmingly African-American, Hispanic, and Asian.  
7 They are overwhelmingly under the age of 35, and they  
8 are overwhelmingly in Democratic areas of Texas -- or  
9 communities that vote overwhelmingly for Democrats. So,  
10 yes, we believe that gross amount of registration inures  
11 to our benefit a lot.

12           Q.     Okay. I'd just like to go through -- turning  
13 back to Exhibit 1, the Notice of the Deposition -- I  
14 think if we scroll up to the chat box, it's still  
15 available there.

16           A.     Sorry. I'm readjusting my water cup.

17           Q.     No problem.

18                     And once you are there, please join me on  
19 page 7.

20           A.     Of what?

21           Q.     Of the Deposition Notice.

22           A.     Are you sharing it with me?

23           Q.     Oh, it's -- I can share it again; but if you  
24 go to the group chat and go all the way to the top, it  
25 will be the first document that we're sharing.

1 A. You're right. Okay.

2 Q. All right. On page 7 this is a list of the  
3 categories of documents that Defendants have requested  
4 TDP to produce, and I'm just going to go through each  
5 one with you. Category 1 says, "Documents sufficient to  
6 substantiate the factual allegations in Paragraphs 11  
7 and 29 through 35 of your Complaint." I'd be happy to  
8 pull up the Complaint if that's helpful, but my question  
9 is whether you've produced documents responsive to this  
10 category.

11 MR. GEISE: And I'm just going to object.  
12 And you can answer any of this other than if -- I mean,  
13 you can answer to the extent any of this doesn't  
14 implicate conversations or documents that you produced  
15 that -- I mean, to the extent it doesn't implicate  
16 conversations with counsel, you can answer this; but if  
17 your only answer is that you produced documents in  
18 consultation with counsel, I think that's the extent of  
19 that inquiry.

20 MS. MACKIN: We are entitled to inquire  
21 into compliance with the subpoena.

22 MR. GEISE: Well, but you can ask -- I  
23 mean, yes; and you can ask him if they produced  
24 documents, I mean.

25 MS. MACKIN: And that's what I'm asking.



1 MR. GEISE: All right.

2 A. Well, I believe that we have produced  
3 documents sufficient to substantiate the allegations.

4 Q. (BY MS. MACKIN) Okay.

5 MR. GEISE: And I'm also going to then  
6 object that that calls for a legal conclusion, but you  
7 can continue. Sorry. I just wanted to get that on  
8 record.

9 Q. (BY MS. MACKIN) Are there any other documents  
10 that I would need to look at to substantiate the factual  
11 allegations that TDP is making in this lawsuit?

12 A. Not that I'm --

13 MR. GEISE: Objection, calls for a legal  
14 conclusion.

15 But you can answer.

16 Q. (BY MS. MACKIN) All right. Moving on to  
17 Category 2, "All communications between you, TDP, and  
18 any person to assist them in registering to vote or  
19 updating their voter registration information after a  
20 driver's license renewal or change of address  
21 transaction on the DPS website." Did you produce  
22 documents responsive to this category?

23 A. I'm unaware of any documents that we have in  
24 our possession or have ever even created that is a  
25 conversation between TDP staffers and voters after

1 they've completed this transaction as far as a document.  
2 I mean, most -- everything we know about this process is  
3 anecdotal or people reporting us -- to us through oral  
4 conversations on our hotline or clerks telling us of  
5 these problems of people getting registered after going  
6 to the DPS. We get many, many reports from county  
7 clerks and election officials of people who believe they  
8 have registered with DPS or when they changed their  
9 address, but it didn't happen. And we've relied on  
10 reports from some studies from Battleground Texas about  
11 that process. But us reaching out and finding a voter  
12 one by one as they've used DPS -- because we have no  
13 knowledge personally of that unless that voter calls us  
14 and tells us that they used DPS and didn't get  
15 registered to vote.

16 Q. So is it your understanding that TDP doesn't  
17 have anything responsive to this category?

18 A. Nothing that's e-mail or writing. Almost all  
19 of this conversation -- is conversations between voters  
20 and our hotline people or voter protection people or us  
21 talking about the problem of it, not with the voter but  
22 with the clerks or election administrators.

23 Q. And would there be any documentation of those  
24 conversations that you mentioned?

25 A. Not that I'm aware of.

1 Q. All right. Moving on to Category 3,  
2 "Documents sufficient to show all information described  
3 and/or requested in Deposition Topic Numbers 2, 3, 4, 5,  
4 and 7, as described in Attachment A." Please join me on  
5 the previous page if it's helpful. Did you produce  
6 documents responsive to this category with respect to  
7 30(b)(6) Topic 2?

8 MR. GEISE: And -- well, I guess,  
9 Mr. Maxey, you can answer that to the extent you're  
10 aware and whether or not you're aware of whether or  
11 not Counsel has provided the State with publicly  
12 available -- with the locations of publicly available  
13 information other than the documents produced.

14 A. I'm sorry. Are we talking about Number 2,  
15 "Your organization, including your organizational  
16 structure, employees, physical assets..."?

17 Q. (BY MS. MACKIN) Yes, sir. I am asking  
18 whether you produced documents sufficient to show TDP's  
19 "organization, including organizational structure,  
20 employees, physical assets, parent and sibling entities,  
21 tax status, and history, the services that you provide,  
22 and the activities you perform."

23 MR. GEISE: And I will instruct the  
24 witness that you can answer to the extent of your  
25 knowledge of whether or not non-privileged, non-First

1 Amendment privileged documents were produced in response  
2 to that request.

3 A. I believe they have been. I don't know if  
4 there were any questions or documents about our tax  
5 status. So I can answer that if you want to know our  
6 tax status, but I don't know if there's a document  
7 anywhere in this about that.

8 Q. What is your tax status? Sure, go ahead and  
9 provide that.

10 A. Political parties are an IRS 527, created by  
11 the IRS Code; and we are legally established through the  
12 Texas Legislature.

13 Q. All right. Moving on to 30(b)(6) Topic 4,  
14 have you produced documents sufficient to show the  
15 activities on which TDP has spent funds or to which it  
16 has dedicated resources in Texas between January 1st,  
17 2014 and the present?

18 MR. GEISE: I'm going to just, again,  
19 object. It calls for a legal conclusion.

20 And you can answer to the extent that you  
21 believe that non-privileged documents have been produced  
22 or indicated to Defendants where they are publicly  
23 available.

24 A. Well, I think all our non-privileged documents  
25 have been produced; and all this information is publicly

1 available on the Texas Ethics Commission and the Federal  
2 Election Commission websites.

3 Q. Okay. Did you -- moving on to Deposition  
4 Topic Number 5, did you produce documents sufficient to  
5 show the activities on which TDP plans to spend funds or  
6 to which it plans to dedicate resources between the  
7 present and January 1st, 2024?

8 MR. GEISE: And, again, I would instruct  
9 the witness that you can answer to the extent you are  
10 aware of non-privileged, non-public documents regarding  
11 Request Number 5.

12 A. I mean, this whole Number 5, everything would  
13 be privileged under our First Amendment. And I will  
14 tell you that we will spend all the money we raise.

15 Q. But you have not produced documents responsive  
16 to -- you have not produced documents sufficient to show  
17 the information in Topic 5 on advice of Counsel?

18 A. I am saying exactly that. There is nothing on  
19 this list that's not protected under our First Amendment  
20 organizing rights.

21 Q. Okay. And then have you produced -- jumping  
22 down to Topic 7, have produced documents sufficient to  
23 show your members who are eligible to use the DPS  
24 website for a driver's license renewal or change of  
25 address transaction and intends to do so?

1 MR. GEISE: I'm just going to object,  
2 asked and answered, to the earlier conversation about  
3 whether or not such documents exist. So to the extent  
4 you're aware of whether or not such documents exist, you  
5 can answer.

6 A. We have no such document to produce. It's  
7 just common knowledge that every Texan who's over the  
8 age of 16 who might want to get a driver's license or  
9 change their address may use the DPS system. So it is  
10 pretty much all of our members and those that have some  
11 kind of disability that they cannot drive a car, such as  
12 a blind person.

13 Q. But you haven't identified any specific  
14 individual member, have you?

15 A. Well, there are named Plaintiffs in this  
16 lawsuit. I think that almost all of our members are  
17 similarly situated that at some point every six years  
18 they will have to go to a DPS office and renew their  
19 driver's license unless they use the online system to  
20 change their address in between those six-year periods,  
21 which doesn't get them registered to vote. So, no, we  
22 don't have a list because it's everybody.

23 Q. All right. Back to the categories of  
24 documents, Number 4 requests "Documents sufficient to  
25 show your organizational structure and employee -- and

1 internal employee hierarchy, including an organizational  
2 chart and job description of all employees." Have you  
3 produced documents responsive to this category?

4 MR. GEISE: The same instruction. You  
5 can answer to the extent you're aware of non-privileged  
6 responsive documents or to the extent that you don't  
7 believe you've testified to this matter.

8 MS. MACKIN: I don't think it's a valid  
9 objection.

10 MR. GEISE: All right. You can answer to  
11 the extent you are aware of non-privileged responsive  
12 documents.

13 A. I'm aware of not -- I'm not aware of any  
14 non-privileged responsive documents to that question.  
15 It's all internal to our First Amendment rights.

16 Q. (BY MS. MACKIN) And so just to make it  
17 perfectly clear --

18 A. Who our employees are and what we pay them is  
19 on the TEC or FEC websites.

20 Q. And this does not request what your employees  
21 are paid. It requests organizational structure,  
22 including an organizational chart and job descriptions.  
23 And as I understand your counsel, is it TDP's position  
24 that that information is protected under the First  
25 Amendment?



1 MR. GEISE: Yes. Although, I believe  
2 that Mr. Maxey has testified to the public nature of  
3 that information. If you're aware that any -- and that  
4 we provided the publicly available organizational chart,  
5 which I understand did not come through correctly; and  
6 we will supplement the production in that manner with  
7 that website. But I believe that anything other than  
8 that is privileged.

9 A. All of our staff and their job titles, at  
10 least, is posted on our website; and the links were in  
11 the document that we produced.

12 Q. All right. And then the final category, "To  
13 the extent not already produced in response to Items 1  
14 through 4 above, all documents reviewed in preparation  
15 for your deposition." Have you produced documents  
16 responsive to this category?

17 MR. GEISE: I'm just going to object. I  
18 mean, you are able to answer that question "yes" or  
19 "no." But I believe that any specific documents you  
20 reviewed are subject to the attorney-client privilege.  
21 You can answer "yes" or "no" whether all documents you  
22 reviewed in preparation for this deposition have either  
23 been produced or Counsel has been -- or, to your  
24 knowledge, whether or not Counsel has been directed to  
25 the appropriate publicly available websites.

1           A.     So my answer is: Every document I reviewed in  
2 response to this has been produced or I have told you  
3 where to find it on a publicly available website.

4           Q.     Okay.

5                     MS. MACKIN: We'll request  
6 supplementation, as was discussed with my colleague,  
7 Chris, earlier and was discussed today; and we will hold  
8 this deposition open to ask any questions about  
9 documents that have been supplemented. But subject to  
10 that, we pass the witness.

11                    MR. GEISE: All right. And we'll --  
12 well, I just have a couple of questions, Mr. Maxey.

13                                 EXAMINATION

14 BY MR. GEISE:

15           Q.     Now, Mr. Maxey, without reviewing or  
16 discussing any specific documents you reviewed in  
17 preparation for this deposition, did you review or come  
18 to understand the total expenditures spent by the Texas  
19 Democratic Party for every year from 2014 through 2019?

20           A.     Yes, I looked at the documents or the FEC and  
21 TEC to get a general understanding of about how much we  
22 spent each calendar year during that period.

23           Q.     And now, Counsel asked you about -- and the  
24 Deposition Notice provides specific certain breakdowns  
25 of those funds, including voter persuasion, Get Out the

1 Vote, voter registration, funds spent on supporting  
2 Democratic candidates through fundraising, funds spent  
3 on supporting Democratic candidates through organizing.  
4 And I believe your testimony -- and correct me if I'm  
5 wrong -- was that such numbers are unknowable. And  
6 could you briefly explain why that is?

7 A. As I stated early on, every employee that  
8 comes to the TDP is asked to become a deputy voter  
9 registrar. Every employee has -- every department has  
10 some level of educating voters or candidates or  
11 activists on how to register somebody or how to get  
12 registered for the target registration. And so every  
13 staffer we have at some point during their time with us  
14 does voter registration. I can recall when our  
15 comptroller sat at a table registering people to vote at  
16 a music festival. So we are all doing that.

17 The cost of all our technology, our data  
18 systems, is done for targeting and voter registration  
19 and vote by mail and Get Out the Vote; and so you can't  
20 just pull out which -- how much of that -- those  
21 computers, those data files, those employees are doing  
22 voter registration.

23 The same thing with communication.  
24 You're talking about all kinds of topics. On a regular  
25 basis they talk about voter registration. Pulling out

1 the cost of their technology, their subscriptions, their  
2 access to Twitter or Instagram, Facebook, other digital  
3 platforms, and e-mail communications, you can't pull out  
4 an exact cost of those programs that was used just for  
5 voter registration. It would be impossible to do  
6 because it's all in the same -- sort of the same pot.

7           Everybody's doing voter registration  
8 activities. You know, the closest I could ever get is  
9 if somebody wanted to see the cost of a specific  
10 mailing; and that is publicly available on the FEC or  
11 TEC because it would have been a bill paid to a vendor.

12           You know, it's the cost of -- I process  
13 about -- right now about, through volunteers, about 300  
14 vote-by-mail applications and dozens of voter  
15 registration applications each week. They go through a  
16 postage meter, and we do not determine which postage  
17 stamp went on a voter registration application being  
18 mailed out versus a vote by mail versus a Get Out the  
19 Vote or a thank you note for fundraising. It's all in  
20 the same pot. So you can't ferret out these costs.

21           The same thing with copy machines, making  
22 copies of voter registration applications to mail to  
23 somebody who asks for one.

24           You know, hand addressing an envelope.  
25 The cost of envelopes, we buy them by the case. We

1 don't say, "Oh, these five were voter registration."

2 So you cannot ferret it out and cannot  
3 give a specific answer.

4 MR. GEISE: Thank you.

5 No further questions for me.

6 MS. MACKIN: And I just have one follow-  
7 up.

8 FURTHER EXAMINATION

9 BY MS. MACKIN:

10 Q. Mr. Maxey, you just talked about how you did  
11 review documents to ascertain the Texas Democratic  
12 Party's total expenditures for the years 2014 through  
13 2020; is that right?

14 A. I did.

15 Q. But that those aren't able to be broken down  
16 into discreet activities, correct?

17 A. I looked at the FEC totals and the TEC totals  
18 because that was on that list.

19 Q. On which list?

20 A. On your list of Depo Notice things that you're  
21 going to ask about, total expenditures. So I looked at  
22 FEC and TEC and I jotted those down on a piece of paper,  
23 that I'm not reviewing now, because I didn't memorize  
24 them totally. But I did not then scroll through the  
25 tens of thousands of entries to see if I could find

1 anything that said "voter registration" because I would  
2 have been doing that for the past week.

3 So does that answer the question? I've  
4 sort of forgotten it.

5 Q. I just wanted to make sure that if I looked at  
6 the publicly available filings --

7 A. You're going to see them.

8 Q. Okay. Thank you.

9 And then, yeah, subject to additional  
10 document production and the witness being unprepared or  
11 improperly instructed to answer, we're holding the  
12 deposition open.

13 But I pass the witness at this time.

14 MR. GEISE: We have no further questions.

15 THE REPORTER: Going off the record at

16 2:04 p.m.

17 (Deposition recessed at 2:04 p.m.)

18 (Signature was not request on the  
19 record.)

20 --ooOoo--

21

22

23

24

25

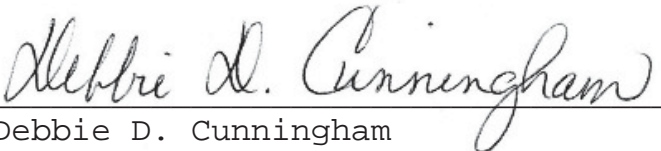
1 STATE OF TEXAS )

2  
3 REPORTER'S CERTIFICATION

4  
5 I, DEBBIE D. CUNNINGHAM, CSR, hereby  
6 certify that the witness was duly sworn and that this  
7 transcript is a true record of the testimony given by  
8 the witness.

9 I further certify that I am neither  
10 counsel for, related to, nor employed by any of the  
11 parties or attorneys in the action in which this  
12 proceeding was taken. Further, I am not a relative or  
13 employee of any attorney of record in this cause, nor am  
14 I financially or otherwise interested in the outcome of  
15 the action.

16 Subscribed and sworn to by me this day,  
17 May 3, 2020.

18  
19  
20 

21 Debbie D. Cunningham  
22 Certified Shorthand Reporter  
23 CSR No. 2065 - Expires 6/30/21  
24 INTEGRITY LEGAL SUPPORT SOLUTIONS  
25 P.O. Box 245  
Manchaca, Texas 78652  
www.integrity-texas.com  
512-320-8690; FIRM # 528



# Exhibit K

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,	*	
Plaintiffs,	*	
	*	
v.	*	No. SA-20-CV-46-OG
	*	
RUTH HUGHS, et al.,	*	
Defendant.	*	

VIDEOTAPED VIDEOCONFERENCED

ORAL DEPOSITION

OF

THE DEMOCRATIC CONGRESSIONAL  
CAMPAIGN COMMITTEE REPRESENTATIVE,  
  
JACQUELINE NEWMAN

Tuesday, April 28, 2020

VIDEOTAPED VIDEOCONFERENCED DEPOSITION OF  
  
JACQUELINE NEWMAN, produced as a witness at the instance  
of the Defendant, and duly sworn, was taken in the  
above-styled and numbered cause on Tuesday, April 28,  
2020, from 10:09 a.m. to 2:05 p.m. Central Time, before  
Debbie D. Cunningham, CSR, in and for the State of  
Texas, remotely reported via Machine Shorthand, pursuant  
to the Federal Rules of Civil Procedure.

--ooOoo--

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--ooOoo--

INDEX

APPEARANCES

2

EXAMINATION OF JACQUELINE NEWMAN:

BY MR. HILTON

6

CHANGES AND SIGNATURE

131

REPORTER'S CERTIFICATION

133

## EXHIBIT INDEX

Exhibit Number	Description	Page
Exhibit 1	Defendants' Notice of Oral Deposition Pursuant to Federal Rule of Civil Procedure 30	24
Exhibit 2	Intervenor-Plaintiffs Texas Democratic Party, DSCC, and DCCC's Complaint for Declaratory and Injunctive Relief	25
Exhibit 3	Alexander Edelman Declaration	26
Exhibit 4	DCCC's Production in Response Subpoena Duces Tecum	29
Exhibit 5	Jacqueline Newman LinkedIn page	14
Exhibit 6	FEC Form 1, Statement of Organization for DCCC	43
Exhibit 7	DCCC Amended Year-End Report Summary	56
Exhibit 8	Excel spreadsheet	45

(Tuesday, April 28, 2020, 10:10 a.m.)

P R O C E E D I N G S

THE REPORTER: Today is April 28th, 2020.

This is the deposition of the Corporate Representative of DCCC, Jacqueline Newman, in the matter of Jarrod Stringer, et al. versus Ruth R. Hughs, et al. We are situated remotely and are on the record at 10:09 a.m., Central Standard Time.

My name is Debbie Cunningham, and my business address is P.O. Box, Manchaca, Texas 78652.

Would all persons present please introduce themselves for the record?

MR. HILTON: Chris Hilton for the Defendants.

MS. BRANCH: Aria Branch for the Plaintiff Intervenor DCCC. That's "D" and then three "Cs."

MS. BRAILEY: Emily Brailey, also for the Plaintiff Intervenor, DCCC.

THE WITNESS: Jacqueline Newman with the DCCC.

\*

\*

\*

JACQUELINE NEWMAN,

1 having taken an oath to tell the truth, the whole truth,  
2 and nothing but the truth, was examined and testified as  
3 follows:

4 EXAMINATION

5 BY MR. HILTON:

6 Q. Good morning, Ms. Newman.

7 A. Hi.

8 Q. Could you please state and spell your name one  
9 more time for the record?

10 A. Sure. It's Jacqueline Newman,  
11 J-A-C-Q-U-E-L-I-N-E N-E-W-M-A-N.

12 Q. And you're here on behalf of DCCC to testify  
13 as their representative today, right?

14 A. I am.

15 Q. Before starting to prepare for this, I  
16 truthfully didn't know a whole lot about the DCCC and  
17 what it does. I think I'm still pretty murky on the  
18 details, and I'm hoping you can explain for me so I can  
19 kind of understand more today. Can you just start me  
20 off with kind of an overview about what the DCCC is,  
21 what its purpose is, what it does?

22 A. Sure. The DCCC is the national party tasked  
23 with electing Democrats to the U.S. House of  
24 Representatives.

25 Q. You said it's a party?



1 A. Yes.

2 Q. Is it separate from, like, the Democratic  
3 Party; or how does that work?

4 A. Yes. I mean, we are part of the Democratic  
5 Party. We are separate from the Democratic National  
6 Committee, which is often what people think of when they  
7 think of the National Democratic Party.

8 Q. So you're separate from the Democratic  
9 National Committee. Is it a subordinate role, is it a  
10 partnership; or what's the relationship there?

11 A. I would say we're affiliated, but we are  
12 not -- we are not interlinked in any way. And we are  
13 also not their subordinate.

14 Q. Okay. And, I mean, I just didn't know. Do  
15 you have a separate Party platform, or how does that  
16 work?

17 A. Yes, I mean, we don't necessarily have a  
18 platform as the DCCC.

19 Q. Okay. And why is that?

20 A. That's just not something we set out to do.

21 Q. So what do you set out to do? I mean, is it  
22 primarily fundraising; or just what is, you know?

23 A. We -- again, we're trying to elect Democrats  
24 to the U.S. House of Representatives; and so we support  
25 campaigns in a variety of ways and functions.

1           Q.    Okay. Well, we'll go through some of the  
2 details of some of that later. I guess I would like to  
3 start, also, with understanding a little bit more about  
4 you and your background. So you're currently employed  
5 by the DCCC; is that right?

6           A.    I am.

7           Q.    And what's your role?

8           A.    I'm the Deputy Executive Director and Chief  
9 Operating Officer.

10          Q.    Okay. And what are the responsibilities for  
11 those roles?

12          A.    I oversee all the administrative and  
13 operations functions for the building -- or for the  
14 committee, that includes the building itself, our Human  
15 Resources functions, our budgets, our legal activity,  
16 just making sure everything is functioning as it should.

17          Q.    How many employees does DCCC have?

18          A.    Right now we are roughly at about 265  
19 employees.

20          Q.    So these are folks that receive a paycheck  
21 from DCCC?

22          A.    Yes.

23          Q.    And where are they located, and what kind of  
24 work do they engage in? I'm trying to get a sense of,  
25 you know, who's out there.

1           A.     Sure.  They -- our employees are located  
2 across the country.  The majority are based in DC.  We  
3 have several employees that are on the ground in Texas  
4 as it relates to this case.

5           **Q.     Uh-huh.  And as far as your job, Deputy**  
6 **Executive Director -- did I get that right?**

7           A.     Yes.

8           **Q.     How long have you had that role?**

9           A.     I think I've had this title since September.  
10 I've been with the committee in some fashion since 2014,  
11 and I was previously with the committee in 2012.

12          **Q.     And what about the COO title, how long have**  
13 **you had that?**

14          A.     About two and a half years.

15          **Q.     Okay.  Who -- what's the reporting -- what's,**  
16 **I guess, the leadership structure?  You're the Deputy**  
17 **Executive Director, so I assume you report to an**  
18 **Executive Director.  Is there anyone else you report to,**  
19 **other folks that report to you?  Can you give me a sense**  
20 **of that?**

21          A.     Yes, you're right.  There's an Executive  
22 Director who oversees all the day-to-day functions of  
23 the committee; and then we also have a Chair of the  
24 committee, Congresswoman Cheri Bustos.

25          **Q.     Anyone else that you report to?**

1 A. No.

2 **Q. And then who reports to you?**

3 A. I have a team below me, a Chief Administrative  
4 Officer, IT Director.

5 **Q. Is that it, there's two people that report to**  
6 **you?**

7 A. Oh, I'm sorry. Then there's some junior-level  
8 staffers below them who are kind of the senior team and  
9 then HR and Administration Manager.

10 **Q. Okay. How many people would you say report to**  
11 **you directly?**

12 A. I think it's about eight or nine people.

13 **Q. Okay. Are there any other deputy executive**  
14 **directors, or are you the only one? Like, a lot of**  
15 **agencies have, like, multiple deputy commissioners in**  
16 **charge of certain things.**

17 A. Sure. There are two other deputy executive  
18 directors.

19 **Q. What are their names, and what are their**  
20 **responsibilities?**

21 A. One is Ryan Hedgepeth, and he is our Deputy  
22 Executive Director for Member Engagement. He works  
23 directly with members of our caucus, members of  
24 Congress. And Mike Smith is also a Deputy Executive  
25 Director, and he oversees our fundraising operations.

1           **Q.    Has there been any change to that structure in**  
2 **the time that you've been with the DCCC?**

3           A.    The Deputy Executive Director structure?

4           **Q.    Yes, yeah.**

5           A.    Yes, there has.

6           **Q.    So what were the changes and when did they**  
7 **occur, again, just kind of focusing on this top-level**  
8 **structure?**

9           A.    Sure. So I'm sorry. Could you -- did you say  
10 this year or during my entire time at the DCCC?

11          **Q.    Just since you've been at DCCC.**

12          A.    Sure. So each cycle, which is a two-year  
13 election period, the DCCC goes through the process of --  
14 at one point it was appointing and now it's electing a  
15 Chair of the committee. And each Chair that comes in is  
16 able to kind of re-image the structure as they see  
17 necessary in order to carry out their goals for the  
18 cycle. And so with that, I would say each cycle there  
19 has been a slightly different leadership structure.

20          **Q.    Can you give me some examples, maybe? Maybe**  
21 **if it changes every two years regularly, we don't have**  
22 **to go through every one; but if you could, kind of give**  
23 **me a sense of what type of changes that there are.**

24          A.    Sure. So usually -- I think in the past few  
25 cycles there has been a Deputy Executive Director, at

1 least one or a few. And last cycle there was one Deputy  
2 Executive Director, and they reported to the Executive  
3 Director. In other cycles there have been a few deputy  
4 executive directors that kind of oversee a few key  
5 functions of the building and then report back to the  
6 Executive Director. Again, it just kind of depends on  
7 the Executive Director and the Chair at the time.

8 **Q. How are the Executive Director and the Chair**  
9 **chosen?**

10 A. Currently -- and this is a somewhat recent  
11 change -- the Chair of the committee is elected by the  
12 Democratic Caucus, and the Executive Director is hired  
13 by the Chair.

14 **Q. Okay. And so you've been with DCCC since 2014**  
15 **and then another stint before then. Is it typical to**  
16 **have a long tenure, you know, for employees to be**  
17 **tenured that length of time; or is there a lot of**  
18 **turnover with these two-year cycles?**

19 A. Yeah, it's definitely more common that people  
20 work a cycle and then they move on to another  
21 opportunity. There's a lot of turnover usually.

22 **Q. Is some of that top down? I mean, does the**  
23 **Executive Director bring in their own people every year**  
24 **or...**

25 A. No. I think it's more just the nature of

1 campaigns that every two years people are moving on to  
2 something else. I think you would see -- and this  
3 partially explains why I've been here longer than most  
4 people, but the administrative functions are the people  
5 who tend to stay cycle to cycle. And the people who  
6 work kind of in different parts of the committee are  
7 often moving on to other campaigns or other  
8 organizations.

9 **Q. So that would be more typical of the folks who**  
10 **do the fundraising or the -- I forget how you put it --**  
11 **the direct interfacing with the caucus members?**

12 A. Yes.

13 **Q. Okay. You've been here, you know, at DCCC**  
14 **quite a while. I take it you enjoy your job?**

15 A. I do.

16 **Q. What do you enjoy about your job?**

17 A. I think the work we do is important, and I  
18 like the values we represent.

19 **Q. Okay. What values?**

20 A. I think electing Democrats to the U.S. House  
21 of Representatives -- you know, the House, I think,  
22 impacts a lot of change within this country; and it's  
23 important that we expand and protect our majority.

24 **Q. You've mentioned that a couple of times**  
25 **already and we're going to talk -- you know, one of the**



1 missions of DCCC and we're going to talk more about that  
2 throughout; but is that the best statement of the  
3 mission, to elect Democrats?

4 A. Definitely.

5 Q. Is there any other component of that, or is  
6 that really what it's all about?

7 A. I think everything ties back to electing  
8 Democrats.

9 Q. Okay.

10 MR. HILTON: I'm going to send out  
11 through the chat what's actually -- I'm going a little  
12 out of order. I kind of prenumbered some of these. So  
13 I'm going to send out Exhibit 5 now, and then we'll come  
14 back to the other ones.

15 (Exhibit 5 discussed.)

16 Q (BY MR. HILTON) So let me know if you're able  
17 to access Exhibit 5; and once you've had a chance to  
18 pull it up and review it, let me know.

19 A. Okay. I have it open.

20 Q. Is that your LinkedIn page, at least part of  
21 it?

22 A. Yes.

23 Q. And I should say -- I forgot to mention this  
24 before -- other than the documents that I send you and  
25 then the Bates numbered documents that your counsel

1 provided to you that were the DCCC's production, do you  
2 have any other documents in front of you, with you? Are  
3 you referring to any other documents?

4 A. No, I don't.

5 Q. Okay. I'll ask for you to continue not to do  
6 that; and if you do refer to another document, please  
7 let me know. And I think the same thing goes with  
8 talking to other people, including by e-mail, text, you  
9 know, anything like that. Please refrain from doing  
10 that, you know, until the deposition is over. And if  
11 you do do that, I'd ask that you please, you know, let  
12 me know.

13 All right. So turning to Exhibit 5,  
14 which is at least a portion of your LinkedIn page, it  
15 has employment history for you going back to May 2008.  
16 I was kind of hoping you could walk me through each of  
17 these positions, starting with May 2008, and explain to  
18 me -- obviously, we don't have to go into a huge amount  
19 of detail for all of these; but if you could, explain to  
20 me just kind of generally what the company was or what  
21 the organization was, what your role was, and kind of  
22 give me a sense of the evolution of your career. That's  
23 my goal here.

24 So if you could just kind of start from  
25 GIS Specialist at the Timmons Group and work your way

1 through, I think that's the most efficient way to go  
2 about it.

3 A. Okay. Sure. So in 2008 I worked with the  
4 Timmons Group, which is an engineering firm. I was a  
5 GIS Specialist at the time, Geographic Information  
6 Systems.

7 Q. What is a Geographic Information System?

8 A. It's like a lot of building kind of digital  
9 maps. That's what I did, usually, for local governments  
10 that were hoping to convert to a modern era, if you  
11 will.

12 Q. In what sense?

13 A. Like, the work I did was taking, like, paper  
14 documents, land parcels, and I was digitizing them.

15 Q. Oh, I see. So any kind of, you know, records  
16 or whatever, just trying to make it into a modern  
17 electronically-accessible system?

18 A. Yeah, yeah, basically.

19 Q. Got it. Any particular projects that stand  
20 out from that time? I don't mean to make you go all the  
21 way back through your career.

22 A. Oh, sure. No, no. So most of the work I  
23 specialized in, we worked with a lot of rural, I guess,  
24 counties and locations; and they were in the process of  
25 trying to basically get up and running a system that --

1 where people in their location can call 9-1-1 and it  
2 would be linked to their home, which I think is  
3 something that, especially in urban and suburban areas,  
4 people take for granted that you call 9-1-1 and they  
5 know where you're calling from. So that required  
6 digitizing all of the maps and then linking each, like,  
7 land parcel to the phone information we had for people  
8 living there. That was the majority of the work I did  
9 at Timmons.

10 Q. Okay. And I'm sorry to dwell on this, but it  
11 looks like your career kind of takes a more political --  
12 or politically-oriented turn from here. Did you do any  
13 political type work or redistricting or anything like  
14 that when you were with Timmons Group?

15 A. I didn't do any political work with Timmons.  
16 I was involved through my school; and while I was  
17 working at Timmons, I took on a side project, which is a  
18 strong majority the role I did above it. And so I was  
19 kind of doing that in my spare time.

20 Q. All right. Well, I know I asked you to just  
21 kind of walk me through this and let you explain it; and  
22 then I immediately interrupted you. So sorry about  
23 that, but maybe you can pick it up from there and  
24 continue to walk me through the rest of your career.

25 A. Sure. So for a strong majority, I was their

1 Compliance Director. I basically oversaw their  
2 bookkeeping and was responsible for accounting and  
3 reporting through the Virginia State Board of Elections,  
4 just maintaining their compliance.

5 And then I found myself in Indiana, where  
6 I was hired as the Deputy Director of Compliance and  
7 Operations; and in that role -- you will sense a theme  
8 here -- but I oversaw the HR, the operations and the  
9 bookkeeping budgets and compliance for the Indiana  
10 Democratic Party.

11 Q. And I'm sorry to interrupt you one more time,  
12 at least. I should have started with this, but I  
13 forgot. What was your -- what education did you have  
14 that led you into all these roles? Like, I think you  
15 mentioned you were still in school when you started with  
16 Timmons. Now, what were you in school for? What  
17 degree, if any, did you attain?

18 A. Sure. I went to school, and I received a  
19 bachelor's degree in geography.

20 Q. And I know as a component of that, there's a  
21 lot of, you know, technical and software and all sorts  
22 of stuff like that that kind of led you to be able to do  
23 the more technical side of things that you're doing?

24 A. Yes.

25 Q. Okay. All right. I interrupted you again.

1 **I'm sorry. Let's try it again.**

2 A. No problem. So I was in Indiana briefly. I  
3 stayed through the end of the election cycle and moved  
4 back to Virginia. In April of 2011 I started with  
5 Protect Your Care and Know Your Care as their Director  
6 of Operations. Again, I kind of oversaw the budget  
7 aspects, the compliance, HR. After --

8 **Q. I'm sorry. What is that group?**

9 A. It was a 501(c)(3) and (c)(4) organized around  
10 educating people on Obamacare --

11 **Q. Okay.**

12 A. -- and the Affordable Care Act.

13 **Q. Okay.**

14 A. In 2012 I took a job with the DCCC as their  
15 Director of Operations on their 2012 Independent  
16 Expenditure Program; and in that role, I managed the  
17 administrative functions for the IE, which is a large  
18 paid media campaign.

19 **Q. And when you say a paid media campaign, can**  
20 **you elaborate a little bit on that?**

21 A. Sure. It's mostly a bunch of TV ads that the  
22 DCCC puts out.

23 **Q. And what was the nature of the ads? What was**  
24 **the purpose?**

25 A. To elect Democrats to the U.S. House.

1           **Q.    Anywhere in particular? Any particular type**  
2 **of ad; or was it just, you know, all House members?**

3           A.    It was certainly focused in our targeted  
4 races. I don't know how much that was off the top of my  
5 head; but I would say, ballpark, it probably covered  
6 about 30 races across the country.

7           **Q.    And -- okay. I think that's enough for now.**  
8 **I'll let you continue.**

9           A.    Following 2012 I took a job with Terry  
10 McAuliffe's campaign for governor in Virginia; and I  
11 operated largely in the same capacity for that roll,  
12 overseeing all the operations functions, HR, budgets,  
13 legal.

14          **Q.    Was that a successful campaign?**

15          A.    It was a successful campaign.

16          **Q.    He's still governor, right? Did he get re-**  
17 **elected since then or...**

18          A.    He is not still governor --

19          **Q.    Oh, okay.**

20          A.    -- but he is always around.

21          **Q.    Okay.**

22          A.    So you feel like he's still governor.

23                   And then, following his successful  
24 campaign, after his inauguration I returned to the DCCC  
25 as Deputy Chief Operating Officer and over the years



1 have slowly progressed.

2 Q. You've stayed around and stayed in a couple  
3 different roles, and I know how it goes when you stay at  
4 a place for a long time.

5 I guess the only other one I wanted to  
6 ask you about specifically was Interim Executive  
7 Director from July of 2019 to September 2019. How did  
8 you come to have that role, and the way you're  
9 describing -- I guess my other question is, as your  
10 primary viewpoint, you know, if it goes in two-year  
11 election cycles, is that a down period since the 2018  
12 election had just been over?

13 What was -- I guess I was saying all of  
14 that to say -- I'll give you an actual question that you  
15 can answer. How did you come to get that role, what did  
16 you do during that period, and how did that relate to  
17 the cyclical nature of DCCC's work?

18 A. Sure. So we had a leadership transition in  
19 the middle of our cycle this year, which actually isn't  
20 common. Usually an Executive Director would be hired in  
21 December or January and stay for two years or longer in  
22 some cases. So there was a leadership transition. In  
23 that moment I stepped up to be the Interim Executive  
24 Director, and largely I ran the entire process to find a  
25 permanent Executive Director.

1 Q. And you say there was a leadership transition.  
2 I'm assuming that someone had signed up to do the role  
3 and then moved on to take another opportunity  
4 unexpectedly?

5 A. Yes.

6 Q. Okay. And you may have mentioned this. I  
7 just don't recall. Where did you say you went to, got  
8 your bachelor's?

9 A. I went to the University of Mary Washington in  
10 Fredericksburg, Virginia.

11 Q. Well, I appreciate all that. It's always  
12 helpful to know. Even though you're a representative on  
13 DCCC's behalf, it's extremely helpful to know your  
14 perspective, your background, and your expertise. So I  
15 appreciate you walking me through that. I know talking  
16 about the full length of one's career is not necessarily  
17 the most exciting, but I appreciate it.

18 I would like to turn now to talk a little  
19 bit about how you -- you know, about the depo itself and  
20 how you prepared for this deposition today. So I guess  
21 start there. What did you do to prepare for the  
22 deposition today?

23 A. Sure. Well, I discussed with my counsel. I  
24 reviewed the Complaint that we had filed and reviewed  
25 the Deposition Notice topics. I also reviewed a

1 declaration that a member of my team had submitted in  
2 response to this.

3 **Q. Any other documents?**

4 A. I gathered information related to the  
5 deposition topics, but that was it.

6 **Q. How did you gather information?**

7 A. I guess searching through DCCC documents.

8 **Q. Okay. Did you search through e-mails or some**  
9 **other source of documents?**

10 A. I think mostly just documents that are on our  
11 drive, like on --

12 **Q. Did you use search terms, or did you just**  
13 **browse through them?**

14 MS. BRANCH: I want to just object to the  
15 extent that it calls for attorney-client privileged  
16 information.

17 But you can answer as long as you're not  
18 revealing any of the content of our conversations.

19 **Q. (BY MR. HILTON) Yeah. And particularly in**  
20 **this prep area it gets kind of close to that. I am not**  
21 **asking you for content of any conversations with your**  
22 **attorneys. So please do not provide that information.**  
23 **I don't want it. It is privileged, so.**

24 All right. So you said that you were  
25 just browsing through files, I guess, based on your

1 knowledge and familiarity with the files of the  
2 organization?

3 A. Yes, that's correct.

4 Q. Did you speak to anyone other than your  
5 attorneys?

6 A. Just our -- yes, with our attorneys.

7 Q. But no other employees of DCCC or anyone else  
8 other than your attorneys?

9 A. Right.

10 (Exhibit 1 discussed.)

11 Q. (BY MR. HILTON) Okay. I'd like to turn to  
12 Exhibit 1, which I had sent out previously via the Zoom  
13 chat. And do you recognize Exhibit 1?

14 A. Yes.

15 Q. And what is it?

16 A. These are the deposition topics you sent in a  
17 Notice for this role.

18 Q. Right. And so let's turn to page 5 of  
19 Exhibit 1. The heading is 30(b)(6) Corporate  
20 Representative Deposition Topics?

21 A. Yes.

22 Q. Are you prepared to testify as to all these  
23 topics today?

24 A. I am.

25 Q. And then I'd like to go to page 6. The

1 heading is Attachment B. These are the document  
2 requests that we sent in connection with this Notice; is  
3 that right?

4 A. Yes.

5 Q. And it sounds like you searched for documents  
6 that were responsive to these requests?

7 A. I worked with my counsel on this.

8 Q. Okay. Did DCCC produce documents responsive  
9 to these requests?

10 A. Yes.

11 Q. So did DCCC comply with these requests?

12 A. Yes.

13 (Exhibit 2 discussed.)

14 Q. (BY MR. HILTON) Okay. The next one is going  
15 to be Exhibit 2, which, hopefully, is the Complaint in  
16 this matter.

17 A. Yes.

18 Q. So you have Exhibit 2 in front of you?

19 A. I do.

20 Q. And have you seen this document before?

21 A. I have.

22 Q. Did you review it before it was filed?

23 A. Yes.

24 Q. How much time did you spend reviewing it,  
25 before it was filed, I mean?

1 A. Before it was filed?

2 Q. Yes.

3 A. Probably -- to be clear, you mean the  
4 Complaint itself or in preparation for the Complaint?

5 Q. I'm breaking it into two parts. So the first  
6 part is: How much time did you spend reviewing the  
7 Complaint before it was filed? And then the next part  
8 will be: Did you review it again for this deposition,  
9 and how much time did you spend reviewing it?

10 A. I probably spent about 30 minutes reviewing  
11 the Complaint before it was filed.

12 Q. Okay. And you said you reviewed it again to  
13 prepare for the deposition today. How much time did you  
14 spend then?

15 A. Probably about an hour.

16 Q. Okay. I'm going to send out the next exhibit,  
17 Exhibit 3, hopefully.

18 (Exhibit 3 discussed.)

19 A. Okay.

20 Q (BY MR. HILTON) Do you recognize what I'm  
21 marking as Exhibit 3 to the deposition? It says  
22 Exhibit B on the first page of it, but I'm going to  
23 refer to it as Exhibit 3.

24 A. Yes.

25 Q. Okay. And what is Exhibit 3?

1           A.     This is a Declaration from Alexander Edelman  
2 in support of the Plaintiff's motion.

3           **Q.     Who is he?**

4           A.     He's DCCC's National Field Director.

5           **Q.     Do you know Mr. Edelman?**

6           A.     I do.

7           **Q.     And how do you know him?**

8           A.     He's my colleague at the DCCC.

9           **Q.     And can you describe exactly what a National**  
10 **Field Director does?**

11          A.     Sure. The National Field Director oversees  
12 the entire field program for the DCCC.

13          **Q.     What is a field program?**

14                   MS. BRANCH: I'm going to object to the  
15 extent that this calls for information that would be  
16 protected by the First Amendment.

17                   But you may answer at a high level.

18          A.     Sure. Our field program is geared at  
19 mobilizing and persuading voters, usually directly on  
20 the ground in our targeted districts.

21          **Q.     (BY MR. HILTON) And how does the field**  
22 **program go about accomplishing that?**

23          A.     We usually work with coordinated campaigns,  
24 which is a collaboration between national parties and  
25 state parties to elect Democrats up and down the ballot.



1 So in Texas we work with the Texas Democratic Party,  
2 along with the other national party committees and, you  
3 know, each state sometimes looks a little bit different;  
4 but usually we are running Get-Out-the-Vote programs,  
5 voter registration programs, engaging our voters  
6 directly on the ground through canvasses.

7 Q. And how does the DCCC's support for that kind  
8 of program play out in practice? I mean, I guess, is it  
9 just providing funding? Do you provide manpower as  
10 well, or what other resources do you provide?

11 A. Yeah, so it's all of the above. We provide  
12 funding. We transfer money to the State Party to be  
13 used for the Coordinated Campaign. We also have our own  
14 direct investments in people on the ground in some  
15 cases. In Texas, for example, we have four offices  
16 opened; and we have staff in those offices.

17 Q. All right. Well, I'm getting a little ahead  
18 of myself. We'll get into more details of that later,  
19 but I realize I forgot to ask: You said -- you  
20 mentioned you reviewed a declaration in connection with  
21 this matter to prepare for the deposition today. Was  
22 this the declaration you were referring to?

23 A. Yes, it was.

24 Q. All right. So we'll leave that to the side  
25 for now and come back to it.

1 (Exhibit 4 discussed.)

2 Q. (BY MR. HILTON) The next group of documents  
3 that I'm going to designate as Exhibit 4 to the  
4 deposition is going to be the DCCC's production in  
5 response to our subpoena duces tecum. So that's Bates  
6 Numbers DCCC 000001 through 805. Do you have those  
7 documents available to you?

8 A. Yes, I do.

9 Q. And are you familiar with those documents?

10 A. I am.

11 Q. Okay. Did you review all of them before the  
12 deposition today?

13 A. Yes.

14 Q. How much time did you spend reviewing them?

15 A. Probably about an hour.

16 Q. Who gathered these documents?

17 MS. BRANCH: I'm going to object to the  
18 extent that this calls for conversations between  
19 attorney and client or attorney work product.

20 MR. HILTON: It does not. I'm asking for  
21 an identity of the person who collected the documents.

22 MS. BRANCH: You can answer that, Jacqui.

23 A. This specific group of documents?

24 Q (BY MR. HILTON) Yeah, Bates Number 1 through  
25 805, the entire production.

1 A. These came from my counsel.

2 **Q. But who collected them?**

3 A. Initially in this process?

4 **Q. Yeah, who at DCCC gathered the documents for**  
5 **production?**

6 A. Staff. And, I mean, I think several people  
7 collected documents related to this production based  
8 on -- based on the request and the search terms guided  
9 by our counsel.

10 **Q. What were the search terms?**

11 MS. BRANCH: Objection, attorney-client  
12 privilege.

13 **Q. (BY MR. HILTON) You can answer.**

14 MS. BRANCH: I'm instructing you not to  
15 answer that.

16 It's clearly search terms that we worked  
17 with them and communicated with them to find the  
18 documents. If there's specific documents you want to  
19 ask about, I think we can do that; but...

20 MR. HILTON: I would like to know the  
21 search terms. Will you provide them to me, Aria?

22 MS. BRANCH: We can talk off the record  
23 about that.

24 MR. HILTON: I would like an answer now  
25 because I feel like I'm entitled to what the search

1 terms are.

2 MS. BRANCH: I don't have them in front  
3 of me, but we can discuss that. They are search terms  
4 that were created based on the subpoena.

5 MR. HILTON: I just want to know if  
6 you'll give me the search terms later.

7 MS. BRANCH: And I'm happy to discuss  
8 that.

9 Q. (BY MR. HILTON) I'm sorry. I feel like I  
10 have to ask my question again, Ms. Newman. What were  
11 the search terms that were used?

12 MS. BRANCH: And I'm going to assert the  
13 same objection and instruct the witness not to answer.

14 Q (BY MR. HILTON) Are you going to abide by  
15 that instruction?

16 A. Yes, I am.

17 Q. Do you know what the search terms are?

18 A. Not off the top of my head.

19 Q. Did you at one point know what they were?

20 A. Yes.

21 Q. Did you refer to something else and refresh  
22 your memory as to what the search terms are?

23 A. I could refer to my conversations with my  
24 counsel.

25 Q. So you could give me the search terms if you

1 were required to do so?

2 MS. BRANCH: They're privileged.

3 MR. HILTON: I understand that that's  
4 your assertion. I disagree with that assertion. And  
5 I'm trying to question the witness, and you cannot  
6 answer for the witness.

7 Q. (BY MR. HILTON) So, Ms. Newman, if you were  
8 required to tell me what the search terms are by a Court  
9 or someone else, would you be able to do so?

10 A. I believe I could.

11 Q. Okay. Who ran the search terms?

12 A. A combination of our staff and our IT  
13 Director.

14 Q. And you mentioned earlier as well that several  
15 people assisted in gathering the documents. Did I  
16 understand your testimony correctly?

17 A. Yes.

18 Q. What are the names of each person who assisted  
19 in gathering these documents?

20 A. I don't know that information. I would have  
21 to check.

22 MR. HILTON: Aria, will you provide me  
23 that information?

24 MS. BRANCH: Again, I think this calls  
25 for privileged information and that these are

1 discussions that we, the attorneys, had with staff at  
2 the DCCC to advise them on how to respond to the  
3 subpoena.

4 MR. HILTON: I'm not asking about the  
5 discussions. I'm asking for the identity of the  
6 individuals who ran the search terms and collected the  
7 documents. I believe your document production is  
8 insufficient. I'm entitled to understand what you did  
9 to produce these documents, and I'm entitled to this  
10 which is not privileged. So I'm going to ask --

11 MS. BRANCH: I think we can have that  
12 conversation. I don't think that Jacqui knows; and I  
13 also think that it infringes on the privilege, so.

14 Q (BY MR. HILTON) Well, Ms. Newman, do you know  
15 the identities of the individuals who ran these search  
16 terms?

17 A. It's a wide group, I think.

18 Q. Okay. Do you know the identity of those  
19 individuals in that wide group?

20 A. I have it somewhere. I do not know right now.

21 Q. But you could get me that information if you  
22 were required to do is?

23 A. I believe so.

24 Q. And you mentioned that several people helped  
25 gather the documents. Were you referring to just

1 running the search terms, or was there some other way in  
2 which documents were gathered?

3 MS. BRANCH: Again, I think this calls  
4 for attorney-client privileged information in that it  
5 goes to the communications we had on how to formulate  
6 the search for documents.

7 Q. (BY MR. HILTON) I am not asking about the  
8 content of any communication that you or anyone at DCCC  
9 had with your counsel, Ms. Newman. I want to be very  
10 clear about that. But I would like to know the method  
11 by which these documents were gathered, and I want  
12 clarity on your earlier testimony. Earlier you said  
13 that several people helped gather the documents. Do I  
14 have that correct?

15 A. Yes.

16 Q. And you also mentioned that there was a wide  
17 group of people who ran search terms. Do I have that  
18 correct?

19 A. I believe so. Like I said, I would have to  
20 check.

21 Q. Okay. And I want to know: Is that the same  
22 group you were referring to, or are there two different  
23 groups of individuals that you're referring to in your  
24 testimony?

25 MS. BRANCH: Same objection. I think



1 asked and answered. She's answered the question.

2 MR. HILTON: With respect, Aria, it has  
3 not been answered. I want to understand who searched  
4 for what and how, and I'm entitled to that information.

5 Q. (BY MR. HILTON) So Ms. Newman, who -- was  
6 there another method of gathering documents other than  
7 running search terms?

8 MS. BRANCH: Again, it's privileged. I  
9 mean, these -- what you're asking -- I understand where  
10 you're coming from, but what you're asking is asking for  
11 the content of the communications we had with them in  
12 terms of how to comply with the subpoena.

13 MR. HILTON: Can you read back my  
14 question?

15 MS. BRANCH: I'm going to instruct the  
16 witness not to answer, and I'm hopeful that we can maybe  
17 move on to another topic.

18 MR. HILTON: Can you read back the  
19 question, Debbie, that I asked? I'd like you to read  
20 the question.

21 THE REPORTER: Yes.

22 (The requested material was read as  
23 follows:

24 "QUESTION: Okay. And I want to know:  
25 Is that the same group you were referring to, or are

1 there two different groups of individuals that you are  
2 referring to in your testimony?")

3 MS. BRANCH: Objection, vague.

4 You may answer if you are able to.

5 A. I don't really understand the question.

6 Q (BY MR. HILTON) Well, I don't really  
7 understand your testimony. You said earlier that there  
8 was a group of -- that there were several people who  
9 gathered documents, correct? That's what you first  
10 said?

11 A. Well -- and I would like to clarify. We might  
12 have asked several people. That does not mean several  
13 people had documents to gather, and I do not know that  
14 information right now.

15 Q. All right. I'm going to ask you one more  
16 time: Who collected the documents for DCCC?

17 MS. BRANCH: Objection, asked and  
18 answered.

19 You can repeat the same answer.

20 MR. HILTON: I would appreciate it, Aria,  
21 if you didn't instruct your witness how to answer my  
22 questions. Okay? That's a speaking objection. It's  
23 not permitted. You can state the basis of your  
24 objection, and you can either instruct her to answer or  
25 not.

1 MS. BRANCH: I think I've done that now.

2 MR. HILTON: Debbie, can you please read  
3 back my question?

4 (The requested material was read as  
5 follows:

6 "QUESTION: I'm going to ask you one more  
7 time: Who collected the documents for DCCC?")

8 A. We would have requested documents from a group  
9 of staff and our IT Director.

10 Q (BY MR. HILTON) What's the name of your IT  
11 Director?

12 MS. BRANCH: Objection.

13 MR. HILTON: What is the basis of your  
14 objection?

15 MS. BRANCH: I think this is -- we're  
16 getting into attorney-client privileged discussions in  
17 terms of preparing for the -- for this.

18 Q (BY MR. HILTON) Ms. Newman, my question is:  
19 What is the name of DCCC's IT Director?

20 A. David Winston.

21 MR. HILTON: I just want to, again, make  
22 clear on the record that I think this document  
23 production is insufficient. We're going to reserve all  
24 rights to pursue whatever remedies we think we need to.

25 I'm asking questions that clearly are not

1 calling for any privileged information, and you're  
2 instructing the witness not to answer. That's improper.  
3 I believe I'm entitled to the answers to these questions  
4 to understand whether this document collection effort  
5 was sufficient. Clearly it was not.

6 Q (BY MR. HILTON) Ms. Newman, I apologize.  
7 I've gotten a little heated during this part of the  
8 questioning. I want you to understand I have no quarrel  
9 with you whatsoever. I'm just trying to get the  
10 information that I need to represent my clients. And so  
11 I'm trying --

12 MS. BRANCH: And I'm happy -- sorry. I  
13 didn't mean to cut you off.

14 MR. HILTON: Go ahead.

15 MS. BRANCH: Well, I'm happy to have, you  
16 know, a further conversation about the document  
17 production. I do think that several of the requests  
18 infringe upon the First Amendment privilege. We've  
19 produced documents responsive to the requests to the  
20 extent they're not privileged. And the client has  
21 stated that they undertook efforts to respond to the  
22 subpoena.

23 If you want to meet and confer, have a  
24 separate conversation about that, we can off the record.  
25 It's probably not as fruitful to do with Ms. Newman,

1 given that she doesn't have vision over the entire  
2 process. And I do think that some of the questions,  
3 when you're talking about search terms, do infringe upon  
4 communications that we've had with our client.

5 MR. HILTON: Sorry. Well, if you can  
6 find a case that says the search terms are going to be  
7 privileged in this context, I'd love to see it.

8 And I think Ms. Newman testified that she  
9 could answer all these questions if you had properly  
10 prepared her; and clearly, you didn't. So, anyway...

11 Q. (BY MR. HILTON) And, again, Ms. Newman,  
12 that's no point against you. I just think your  
13 counsel's not done what they should have done with  
14 respect to the document production, but we'll move on.

15 MS. BRANCH: I think that she's prepared  
16 for this deposition. She's prepared on the topics; and,  
17 you know, we've produced her here to answer the  
18 questions on the topics. And we produced documents  
19 responsive to the extent that they were not privileged.

20 Q (BY MR. HILTON) Did you review any other  
21 documents other than the ones that we've already  
22 discussed today in preparation for your deposition,  
23 Ms. Newman?

24 A. I don't believe so.

25 Q. Okay. You mentioned that you met with counsel

1 to prepare for this deposition, correct?

2 A. Yes.

3 Q. When?

4 MS. BRANCH: Just -- I'm going to just  
5 assert the objection.

6 This particular question is not  
7 privileged; but I just want to be clear, Jacqui, that  
8 you don't have to disclose anything that we discussed.  
9 But you may answer the question.

10 MR. HILTON: Ms. Branch, again, please  
11 refrain from speaking objections. You just spoke  
12 without an objection, and that's improper.

13 Q (BY MR. HILTON) Ms. Newman, when did you meet  
14 with your attorneys?

15 MS. BRANCH: The objection, just for the  
16 record, is attorney-client privilege.

17 But you may answer to the extent that  
18 you're not disclosing our communications.

19 A. I met with counsel regarding this deposition  
20 yesterday and last week.

21 Q. (BY MR. HILTON) So on two occasions?

22 A. Yes.

23 Q. How long were those meetings, again, without  
24 disclosing the content?

25 A. I think roughly about an hour each.

1           **Q.    Who was in attendance at those meetings?**

2           A.    My counsel, Aria and Rachel.

3           **Q.    And yourself.  Anyone else?**

4           A.    Yeah, myself.  We met with another member of  
5 my team, too, Alex Edelman.

6           **Q.    That's the same person who signed that**  
7 **Declaration that's Exhibit 3?**

8           A.    Yes.

9           **Q.    Okay.**

10                   MR. HILTON:  All right.  I'd like to take  
11 a short break if that's all right.  I will need about  
12 five minutes; but if y'all want to take a longer break,  
13 that's fine.

14                   THE WITNESS:  Can we have ten minutes?

15                   MR. HILTON:  Sure.

16                   THE WITNESS:  Thank you.

17                   THE REPORTER:  Going off the record at  
18 11:02 a.m.

19                   (Off the record from 11:02 to 11:14 a.m.)

20                   THE REPORTER:  We're back on the record  
21 at 11:14 a.m.

22                   MR. HILTON:  And as we've done in the  
23 other depositions, I'm fine waiving the additional read-  
24 on every time we go back on, as long as y'all are fine  
25 with that.



1 MS. BRANCH: I'm good. Thank you.

2 Q. (BY MR. HILTON) Ms. Newman, I, again, just  
3 wanted to, you know, apologize that you had to get  
4 dragged into that discussion between counsel and I. I  
5 hate to do that kind of stuff in depositions; sometimes  
6 it happens. But just, you know, I'm going to try and  
7 move on and get through the substance of what I have to  
8 ask you about kind of as painlessly as possible as I  
9 can.

10 You know, I just want to, again, make  
11 clear that I'm not asking for you to reveal any  
12 privileged information with any of my questions. Of  
13 course, your counsel will instruct you or object, you  
14 know, as necessary. But I just want to make that clear.  
15 I'm not intending to ask for privileged information.

16 So I want to turn back to the DCCC and  
17 just talking about the organization's background and  
18 activities and that kind of thing. And I can't remember  
19 if I asked you this or not before: When was the DCCC  
20 first established?

21 A. It was established over 150 years ago. I  
22 think it's 1866.

23 Q. Wow. And has its mission changed over time?

24 A. I don't believe so.

25 Q. But electing Democrats is the name of the game

1 since 1866?

2 A. I think that's about right.

3 Q. We talked a little bit earlier about the  
4 relationship between DCCC and the DNC, and I kind of  
5 want to explore similar issues in relation to an exhibit  
6 that I just sent out in the Zoom chat. This is  
7 something I found on the FEC's website. That's the  
8 Federal Election Commission. Are you familiar with the  
9 FEC?

10 A. Yes, I am.

11 Q. I would imagine that you would be.

12 (Exhibit 6 discussed.)

13 Q. (BY MR. HILTON) Do you have Exhibit 6 in  
14 front of you?

15 A. Yes, I do.

16 Q. And do you recognize Exhibit 6?

17 A. Yes, I do.

18 Q. And what is it?

19 A. This is a Statement of Organization filed with  
20 the FEC.

21 Q. And I guess before we dig into it, I'm  
22 curious: Are you responsible for, you know, making sure  
23 that the FEC filings get done?

24 A. I am not responsible for those.

25 Q. Who has that responsibility?

1 A. Our Chief Financial Officer.

2 Q. And who is that?

3 A. Jackie Forte-Mackay.

4 Q. Yeah, her name pops up on some of this stuff,  
5 I think. She's on this one.

6 Are you familiar with FEC filings for the  
7 DCCC?

8 A. Yes, I am.

9 Q. Do you review them before they get filed?

10 A. I do not.

11 Q. How are you familiar with them, then?

12 A. I have an awareness -- a top-line awareness of  
13 our filings before they are filed; and if there's any  
14 questions or concerns, sometimes I am a part of those  
15 conversations.

16 Q. So just in the course of your job, you have  
17 occasion to refer to them and work with them?

18 A. Yes.

19 Q. Did you review any FEC filings before the  
20 deposition today?

21 A. I reviewed some of our FEC filings that show  
22 our work in Texas.

23 Q. Which filings?

24 A. I believe Aria shared these with you; but,  
25 basically, the money that we sent to the Texas

1 Democratic Party.

2 Q. Well, let's skip ahead so I don't lose the  
3 thread of this. I'm going to send out what I'm marking  
4 as Exhibit 8 to the deposition. This is an Excel  
5 spreadsheet.

6 (Exhibit 8 discussed.)

7 Q (BY MR. HILTON) And this was, you know, my  
8 attempt to export the data from the FEC link that your  
9 counsel provided. So let me know once you have the  
10 spreadsheet open.

11 A. Okay. I have this open.

12 Q. I hesitate to ask: Do you recognize what you  
13 are looking at here in Exhibit 8?

14 A. Yes, I do.

15 Q. Okay. And what is this?

16 A. This appears to be a document showing  
17 transfers from the Democratic -- or from the DCCC to the  
18 Texas Democratic Party, dating back to 2014.

19 Q. Is this the FEC filings that you were  
20 referring to when you said you reviewed some FEC  
21 information prior to the deposition?

22 A. Yes, this looks like it.

23 Q. There's another version on the web page that  
24 looks a little better. I prefer to use this version if  
25 you can manage to work with it because this is the

1 version that you get when you export the data from the  
2 FEC; but if it just becomes unworkable, we have that as  
3 an option. And I can try to do a little screen share.  
4 But, again, this is the data from the link that your  
5 counsel provided to me last night; and is that what it  
6 appears to be to you as well?

7 A. Yes.

8 Q. Okay. I think you already said that, but I  
9 just wanted to make that clear.

10 Since we're here, I might as well ask you  
11 the questions I have on this document. What information  
12 can I glean about what the purpose of these funds was  
13 from Exhibit 8?

14 MS. BRANCH: Objection, vague.

15 You may answer the question.

16 A. You can learn how much money we transferred to  
17 the Texas Democratic Party and on what dates.

18 Q. (BY MR. HILTON) Can I learn what the funds  
19 were for?

20 A. No.

21 Q. I can't learn which activities they supported?

22 MS. BRANCH: Objection.

23 A. No.

24 Q (BY MR. HILTON) Is there another document  
25 that I could refer to that would allow me to determine

1 what these fund transfers were used for?

2 A. No.

3 Q. So no document exists that would allow me to  
4 determine what any of these fund transfers were used for  
5 in the possession of DCCC?

6 A. I mean, our internal budgets and plans may  
7 share information -- or have information related to  
8 these transfers.

9 Q. And were those documents produced?

10 MS. BRANCH: Objection. This is  
11 attorney-client privilege, and you're asking questions  
12 that call for information protected by the First  
13 Amendment privilege.

14 Q. (BY MR. HILTON) I'm not intending to call for  
15 privileged information. I just want to understand if  
16 the documents that you were just referring to,  
17 Ms. Newman, were included in the production which I've  
18 marked as Exhibit 4 to this deposition, Bates Number  
19 DCCC 1 through 805.

20 MS. BRANCH: And I think those documents  
21 were privileged. So whatever she's referring to, that  
22 would be the reason why they were not produced.

23 MR. HILTON: Ms. Branch, I'm sorry. I'd  
24 like to hear the answer from the witness.

25 Q. (BY MR. HILTON) Ms. Newman, were those

1 documents that you were just referring to included in  
2 Bates Number DCCC 1 through 805?

3 A. I'm not sure.

4 Q. Well, you have those documents in front of  
5 you. If you want to look through that and see if  
6 they're in there, you can do that.

7 A. Oh, sorry. They are not in Exhibit 4.

8 Q. Okay. So those documents that would show me  
9 what activities these funds were spent on, those have  
10 not been produced?

11 A. That's my understanding.

12 Q. Okay. And, again, I want you to be sure. You  
13 have all the documents that were produced in front of  
14 you. So I would kind of like a definitive answer to  
15 that.

16 MS. BRANCH: Objection, asked and  
17 answered.

18 A. I don't believe that they are included in that  
19 document. They are strategic information and documents  
20 related to our work.

21 Q (BY MR. HILTON) Okay. So they were not  
22 produced?

23 A. Right.

24 Q. All right. I think we are done with  
25 Exhibit 8.



1 Can we turn back to Exhibit 6, which is  
2 where I think this digression started? Do you still  
3 have that in front of you, Ms. Newman?

4 A. Yes, I do.

5 Q. Had you seen Exhibit -- when was the last time  
6 you've seen Exhibit 6, or have you seen Exhibit 6  
7 before?

8 A. Yes. It's probably been several months since  
9 I've seen this.

10 Q. Okay. So you didn't review it to prepare for  
11 the deposition?

12 A. I did not.

13 Q. And it has a list of what I'll refer to as  
14 affiliated committees/organizations. And each of those  
15 appear to have an affiliated relationship code that  
16 describes them as a joint fundraising representative.  
17 Do I have that about right?

18 A. Yes.

19 Q. And so can you explain to me what an  
20 affiliated relationship code is and what a joint  
21 fundraising representative is?

22 A. Again, I don't file these reports. So I'm not  
23 deeply familiar, but I believe an affiliated  
24 relationship code is an FEC term to qualify the  
25 relationship here. And a joint -- and these are all

1 committees that we have joint fundraising committees  
2 with.

3 Q. Is that what joint fundraising representative  
4 means? It means you do joint fundraising activities?

5 A. Yes.

6 Q. Which of these listed groups relates to  
7 activities in Texas?

8 A. The Blue Texas Fund is related to Texas. It  
9 is possible the New Wave Women's Fund -- I believe that  
10 also has a Texas connection.

11 Q. Any others?

12 A. I believe that's it. There's also a chance  
13 the Red to Blue Victory Fund may have a connection to  
14 Texas, but I'm not aware of that at this time.

15 Q. Okay. So sitting here today, you don't know  
16 for sure whether Red to Blue Victory Fund has a Texas  
17 connection?

18 A. Correct.

19 Q. But Blue Texas Fund, I assume, does. And New  
20 Wave Women, you also think has a Texas connection. Do I  
21 have that about right?

22 A. Yes.

23 Q. Okay. Let's start with Blue Texas Fund. What  
24 is it?

25 A. This is a joint fundraising agreement with

1 campaigns in Texas.

2 **Q. Any campaigns in particular?**

3 A. I believe the Fletcher campaign in Texas 7 and  
4 the Allred campaign in Texas 32.

5 **Q. Any others?**

6 A. I would need to confirm.

7 **Q. Do you know if that information is reflected**  
8 **in any of the documents that were produced to us?**

9 A. Yes, I believe it is.

10 **Q. All right. I think -- I think that we will**  
11 **get there later. So I think we can leave that for now.**

12 **But what activities does the Blue Texas**  
13 **Fund engage in specifically?**

14 A. Fundraising.

15 **Q. And how is that conducted?**

16 A. I'm sorry. Could you repeat the question?

17 **Q. You said Blue Texas Fund, the only activity**  
18 **you said was fundraising; is that right?**

19 A. Yes.

20 **Q. Okay. No other purpose for Blue Texas Fund?**  
21 **Nothing else that it does?**

22 A. Correct.

23 **Q. And so how does Blue Texas Fund go about its**  
24 **fundraising activities?**

25 MS. BRANCH: And I'm just going to object

1 to the extent that this calls for a legal conclusion  
2 based on how joint fundraising works.

3 But you may answer to the extent that you  
4 know.

5 A. It's mostly a direct mail fundraising  
6 campaign.

7 Q (BY MR. HILTON) So sending mail solicitations  
8 to people for donations?

9 A. Yes.

10 Q. And you said "mostly." Are you aware of any  
11 other fundraising activities that the Blue Texas Fund  
12 engages in?

13 A. No. I believe it's direct mail.

14 Q. And what's DCCC's involvement in those  
15 activities?

16 A. We help facilitate the direct mail, the copy,  
17 getting it out.

18 Q. I don't think I understand what you mean by  
19 facilitate and help getting it out. Can you describe  
20 that a little more specifically?

21 A. Sure.

22 MS. BRANCH: I'm going to object to the  
23 extent that is calls for information privileged by the  
24 First Amendment.

25 You may answer at a high level.

1 THE WITNESS: Sure.

2 A. We -- we work with, you know, whoever else is  
3 in the fund and work on the creative printing and direct  
4 mailing of the mail solicitations.

5 Q. (BY MR. HILTON) And when you say "work on,"  
6 do you mean -- does that just mean you're providing  
7 funds; or do you also provide actual, you know,  
8 manpower, labor?

9 A. Actual manpower.

10 Q. I'm sorry. Go ahead.

11 A. Oh, no.

12 Q. And you said you worked with whoever else is  
13 in the fund. Is that the two campaigns you referred to  
14 earlier?

15 A. Yes.

16 Q. And then whoever else you can't recall, but  
17 it's in the documents?

18 A. Yes.

19 Q. And the direct mail Blue Texas Fund engages  
20 in, is that purely a solicitation for donations; or is  
21 there anything else that these, you know, mailers are  
22 trying to accomplish?

23 A. It's just for fundraising.

24 Q. Okay. Does Blue Texas Fund engage in any  
25 voter registration efforts?

1 A. No.

2 Q. And how about New Wave Women, what is -- you  
3 know, what is that?

4 A. It's very similar to the Blue Texas Fund  
5 except it is a joint fundraising agreement highlighting  
6 our frontline women candidates.

7 Q. And who is that fundraising agreement with?  
8 Is it also with campaigns in Texas?

9 A. Again, I would need to check on who that  
10 agreement is with. I believe it's broader than Texas.

11 Q. Understood. You did say that earlier. You're  
12 right.

13 Do you know who the participants from  
14 Texas in the New Wave Women group are?

15 A. Again, I would need to check.

16 Q. Is that in the document that was produced?

17 A. If it is related to Texas, I think it would be  
18 in the production.

19 Q. I'm going to pull up a document that I had  
20 prepared to talk about with you, and I want to see if  
21 this is going to show me the information that we're kind  
22 of circling around here. So I'm going to send it out  
23 again through the group chat. This is a portion of  
24 Exhibit 4, which is the document production that was  
25 given to us. This is a file labeled DCCC 661. That's

1 the beginning Bates number. It's a two-page document.

2 Let me know when you have that in front of you.

3 A. Okay. I have it open.

4 Q. What is this document?

5 A. This is a release of our House Majority  
6 Battlefield and the first twelve candidates named to the  
7 DCCC's Red to Blue program.

8 Q. Does this document show the participants in  
9 the Blue Texas Fund or New Wave Women?

10 A. No, it does not.

11 Q. Okay. Well, maybe let's do this, because I  
12 would like to know who in Texas is involved with those  
13 funds. I'd like to understand the relationships that  
14 DCCC has with affiliates who work in Texas. And so  
15 maybe the next time that we take a break would be an  
16 appropriate time for you to look through Exhibit 4 and  
17 find those documents that you're referring to.

18 A. Okay.

19 MS. BRANCH: Yes, I think we did produce  
20 information on the Blue Texas Fund. So we can pull up  
21 those documents after the break for sure.

22 MR. HILTON: Yeah. Let's -- if that's  
23 all right with y'all, let's just do that on the next  
24 break. I'm going to make a note real quick to come back  
25 to that.



1 Q. (BY MR. HILTON) And, Ms. Newman, if you  
2 happen to, you know, as we're going through other  
3 stuff -- if you happen to come across these documents as  
4 we're going through stuff, you know, holler at me; and  
5 we can take care of it right then so we don't have to  
6 come back to it.

7 A. Will do.

8 Q. I think that's all I have for Exhibit 6.

9 I'm going to move now to Exhibit 7.

10 (Exhibit 7 discussed.)

11 Q (BY MR. HILTON) I've just sent it out via  
12 Zoom chat. I gave this a file name that I thought it  
13 was, but I actually really don't know what I'm looking  
14 at here. So please let me know once you have this in  
15 front of you. And once you do, if you know, if you  
16 could, tell me what is that we're looking at here.

17 A. Sure. This appears to be the summary page for  
18 an amended year-end report from the DCCC.

19 Q. And are you familiar with these year-end  
20 reports?

21 A. Yes.

22 Q. Did you review any year-end reports in  
23 preparation for your deposition?

24 A. I did not.

25 Q. What is your familiarity with these reports?

1 Is it similar to the first one we looked at where it  
2 just comes up in the course of your work?

3 A. Yes, it is.

4 Q. And I don't mean to speak for you, but any  
5 other differences compared to what we looked at before?  
6 Anything else I should know about your familiarity with  
7 this report?

8 A. No. I mean, we talked about it from a high  
9 level; but I do not review the reports.

10 Q. Got it. And you said this is just a summary  
11 page. Do you know what other information is included  
12 with these forms, these reports?

13 A. Yes. So this is the summary, the overview of  
14 mostly cash on hand, total money in, and total money  
15 out. And then on the FEC website itself, you would be  
16 able to click through these filings and see all of the  
17 receipts and disbursements itemized. And at least with  
18 the disbursements, that also shows, like, the vendor and  
19 a purpose.

20 Q. So on page 1 of Exhibit 7, there are some  
21 links there. It says, "Summary Page, Detailed Summary  
22 Page." And then describes Schedule A, B, and D filings.  
23 Are those the attachments to the schedules that you're  
24 referring to?

25 A. Yes.

1 Q. And I did not include those in Exhibit 7.  
2 That's not my normal practice; but when I tried to  
3 download them all, it was something like almost 50,000  
4 pages. So I don't intend to go through 50,000 pages  
5 with you today; but, you know, what I'm -- I'm hoping  
6 maybe you can tell me if I were to look at the itemized  
7 disbursements in Schedule B, you mentioned that it  
8 included the description of the purpose for the  
9 disbursement. Did I hear you correctly?

10 A. Yes.

11 Q. And what -- can you give me an example of what  
12 that might look like?

13 A. Yes. So for all the disbursements, it usually  
14 shows who the expense is disbursed to, what the vendor  
15 name is, the date of the disbursement; and then there is  
16 an amount related to that expense, as well as a  
17 description for the expense itself.

18 Q. Well, what kind of information will be  
19 contained in the description field or maybe --

20 MS. BRANCH: I'm going to object on the  
21 basis that this is all public, and the documents speak  
22 for themselves.

23 You may answer to the extent that you can  
24 describe this.

25 A. Sure. I mean, it depends on the expense; but

1 it's usually a general descriptor. So if it's office  
2 space, it might say "rent." If it's, you know,  
3 staples.com, it would say "office supplies."

4 Q. (BY MR. HILTON) But -- okay. That's helpful.  
5 That's what I assumed that it was going to be, kind of a  
6 high level of detail; and that's what it sounds like  
7 you're describing. It sounds like if I look at those  
8 Schedule B filings, it will not tell me, you know,  
9 "Funds spent in Bexar County related to voter  
10 registration efforts in Precinct 3"? It won't be that  
11 level of detail; is that right?

12 MS. BRANCH: Objection, public  
13 information. The document speaks for itself.

14 You may answer.

15 A. Yes, I would agree with that.

16 Q (BY MR. HILTON) Okay. I'd like to focus  
17 on -- turn back to Exhibit 7. I'd like to focus on  
18 page 2 in the disbursements section.

19 A. Yes.

20 Q. What I was hoping you could do for me is  
21 explain to me what each of these types of disbursements  
22 are. It sounds like, you know, dealing with these  
23 filings and putting them together is not your primary  
24 job duty. So, you know, to the extent that you can, if  
25 you have an understanding of any of these categories,

1 I'd like to know what your understanding is.

2 MS. BRANCH: And I'm just going to object  
3 to the extent that this calls for a legal conclusion  
4 since some of these are legal terms.

5 Jacqui, you may answer.

6 MR. HILTON: And, again, I think it's  
7 going to go smoother if you could just limit the  
8 speaking objections. I'd appreciate it.

9 A. Yeah, I'm happy to share my non-expert opinion  
10 on these. So each line item the FEC calls for relates  
11 to a slightly different kind of expenditure. Line 21 is  
12 our operating expenditures; 22 are transfers to  
13 affiliated or other party committees. So, actually,  
14 what you see in Column A, the 45,360 number, that is  
15 money that we transferred to Texas at the end of the  
16 year, to the Texas Democratic Party. And any money we  
17 transfer to party committees would show up on that line  
18 item. Twenty-three is contributions to federal  
19 candidates or other party -- or other political --

20 Q. (BY MR. HILTON) I'm sorry. I had a question  
21 for you on 22 there.

22 A. Sure.

23 Q. I'm looking at Column A. It's 45,360. You  
24 said that represented funds transferred to the Texas  
25 Democratic Party?

1 A. Yes.

2 Q. And how do you know that?

3 A. Well, it's -- usually, we don't transfer a lot  
4 of money in the off year. And so I'm aware that we had  
5 transferred money to Texas in December, and I also came  
6 across that again in preparation for that -- for this  
7 deposition.

8 Q. Okay. And so there are two columns here. One  
9 of them says, "Column A, This Period." And that's where  
10 the 45,360 appears. There's also Column B that says,  
11 "Calendar Year." And that number's quite a bit higher,  
12 885,821.16. Do you see that?

13 A. Yes.

14 Q. What's the difference between those two  
15 numbers?

16 A. Column B refers to amounts that were filed in  
17 previous reports. So it's the total amount that we  
18 transferred that calendar -- in 2019. And we had  
19 transferred the 45,360, I believe, in December, which  
20 was the report filing in question for this time.

21 Q. Oh, okay. So this is -- what I've given you,  
22 I think, is the second amended year-end report. I  
23 guess -- tell me if I have this correctly -- Column B  
24 would be the total of transfers to affiliated or other  
25 party committees that appear on all of the year-end

1 reports then?

2 A. Yes. It's the total we transferred to other  
3 party committees in the year 2019.

4 Q. Okay. Okay. And you just happen to know that  
5 this 45,360 was the Texas Democratic Party because of  
6 the timing, and you just happen to know?

7 MS. BRANCH: Objection. This is all  
8 public.

9 A. Yes. And in Exhibit 8 that you shared  
10 earlier, you can see that transfer as well.

11 Q. (BY MR. HILTON) Okay. Great. That's  
12 helpful.

13 But I wouldn't be able to tell that from  
14 the face of Exhibit 7?

15 A. No.

16 MS. BRANCH: Objection. Vague.

17 Q (BY MR. HILTON) Let's go down to -- all  
18 right. Well, let's -- sorry to interrupt you again  
19 there; but that was helpful to help me understand the  
20 difference between Column A and Column B here.

21 Can you -- I guess we were on Line 23  
22 then; and maybe you could pick back up with, you know,  
23 explaining to me what these -- your categories of  
24 disbursement are.

25 A. So Line 23 is contributions to federal



1 candidates or other political committees.

2 Twenty-four would show any disbursements  
3 we made that are considered to be independent  
4 expenditures.

5 **Q. And what does that mean?**

6 A. An independent expenditure is an expenditure  
7 that's made kind of without any coordination. So those  
8 are expenses that would not be working directly with a  
9 campaign or another party.

10 **Q. Could it be an expenditure related to a**  
11 **campaign?**

12 A. Yes.

13 MS. BRANCH: Objection to the extent  
14 these questions call for legal conclusions.

15 But, Jacqui, you may answer based on your  
16 knowledge.

17 **Q (BY MR. HILTON) So if you -- this is a**  
18 **hypothetical example; I don't know whether it's**  
19 **happened -- but if DCCC wanted to run ads in support of,**  
20 **you know, Wendy Davis in her campaign and didn't**  
21 **coordinate with that campaign prior to running the ads,**  
22 **just kind of did it on its own, would that be an**  
23 **independent expenditure?**

24 MS. BRANCH: Objection to the extent that  
25 this calls for a legal conclusion.

1 But you may answer.

2 A. In a very simple view, yes. It's a little bit  
3 more complicated than that because it requires us to  
4 meet certain standards to prove that we haven't  
5 coordinated with the campaign. We're not using any  
6 campaign information.

7 Q (BY MR. HILTON) Yeah, understood. When  
8 lawyers are involved, it's never going to be that  
9 simple. So I get that. But that's helpful to help me  
10 kind of understand what we're looking at.

11 All right. So that was 24, independent  
12 expenditures. How about 25?

13 A. This is coordinated expenditures made by a  
14 party committee, so that's almost the opposite of an  
15 independent expenditure.

16 Q. Sure.

17 A. Twenty-six is loan repayments made.  
18 Twenty-seven is --

19 Q. Is that 16 million on loan repayments made?

20 A. Yes.

21 Q. And what was that payment?

22 MS. BRANCH: Objection to the extent that  
23 this calls for information privileged by the First  
24 Amendment.

25 But if you can answer that without

1 revealing strategic information, you may do so.

2 A. As you can see in the publicly available  
3 findings -- or filings, the DCCC took a line of credit  
4 for \$16 million.

5 **Q. From who?**

6 A. Bank of America.

7 **Q. And what were those funds used for?**

8 MS. BRANCH: Objection, same one.

9 You can answer at a high level.

10 A. Our expenditures.

11 **Q (BY MR. HILTON) Which expenditures?**

12 A. Just generally.

13 **Q. Can you give me an example?**

14 A. Well, this loan was taken in the 2018 cycle,  
15 so it was for expenditures that occurred in 2018.

16 **Q. So, like what?**

17 MS. BRANCH: Objection to the extent that  
18 this calls for strategic information. I don't know the  
19 relevance. Is there a specific relation to this case on  
20 this question?

21 MR. HILTON: I would like to know an  
22 example of what this money was spent on in the 2018  
23 campaign.

24 MS. BRANCH: Okay. I think the fact that  
25 they took out a loan is public, but I instruct the

1 witness not to answer specific information about what  
2 the loan was used for.

3 MR. HILTON: On what basis?

4 MS. BRANCH: The First Amendment.

5 MR. HILTON: I'm not asking for any  
6 strategic information.

7 MS. BRANCH: I think you can answer at a  
8 high level, Jacqui.

9 I think she's already done that, but...

10 Q (BY MR. HILTON) I just want to know an  
11 example of an expenditure that came from the \$16 million  
12 during the 2018 campaign.

13 A. Yeah, we -- I definitely can't point to, like,  
14 "This expense was paid for by this loan." It's kind of  
15 all of our activities and expenditures grouped together.

16 Q. I don't understand.

17 MS. BRANCH: Is there a question?

18 Q. (BY MR. HILTON) Can you please elaborate on  
19 your answer because I don't understand?

20 A. I would just say the loan generally applied to  
21 our activities in the 2018 cycle.

22 Q. So --

23 A. There's not a specific expense.

24 Q. So it was a 16-million-dollar line of credit,  
25 you said?

1 A. Yes.

2 Q. And my understanding of how lines of credit  
3 work -- maybe this one is different -- is that you have  
4 to make the decision to draw down on that line of  
5 credit, correct?

6 A. Yes.

7 Q. It's not like Bank of America just handed you  
8 a check for \$16 million; and it got thrown into a common  
9 account, correct?

10 A. Correct.

11 Q. Okay. So can you give me an example of when  
12 the DCCC -- let's do it this way: How about an example  
13 from an expenditure that was made in Texas from this  
14 line of credit?

15 MS. BRANCH: Again, same objection on the  
16 First Amendment.

17 But, Jacqui, you can talk about the 2018  
18 spending in Texas at a high level.

19 A. Sure. Well, we, the DCCC, invested over  
20 \$6.7 million in Texas in the 2018 cycle. Again, I can't  
21 point to any expense that this loan went directly to  
22 fund other than to say it allowed us to complete all of  
23 our activities in 2018.

24 Q. (BY MR. HILTON) Who would know how this line  
25 of credit was used?

1 MS. BRANCH: Objection, First Amendment.

2 Do not answer is my instruction.

3 Q. (BY MR. HILTON) Are you going to abide by  
4 that instruction?

5 A. Yes, I am.

6 Q. You mentioned DCCC has a CFO?

7 A. Yes.

8 Q. What's that person's name?

9 MS. BRANCH: Objection, First Amendment.

10 This is -- some of this is public information, but I'm  
11 just not sure what the purpose of this line of  
12 questioning is.

13 MR. HILTON: Ms. Branch, please limit  
14 your speaking objections.

15 Q. (BY MR. HILTON) I would like to know the name  
16 of the CFO of the DCCC.

17 A. Jackie Forte-Mackay.

18 Q. Would she know how this expenditure was used,  
19 how this line of credit was used?

20 MS. BRANCH: Objection, First Amendment.  
21 Vague. I'm going to instruct the witness not to answer.  
22 Again, the strategic decisionmaking of the DCCC and use  
23 of that loan is protected by the First Amendment; and  
24 the witness is not going to answer further questions on  
25 that.

1           So we can keep objecting and you can take  
2 offense to my speaking objections, but I'm going to put  
3 that on the record and I want that to be clear. I also  
4 want to make clear on the record that your tone earlier  
5 with respect to my objection and then cutting me off has  
6 been hostile. So I want that to be reflected.

7           But, again, I'm going to continue to make  
8 that objection; and we can kind of do that all day. I  
9 don't think it's directly relevant to the DCCC's  
10 standing, but we can proceed.

11           MR. HILTON: Well, I disagree with your  
12 characterization of my tone; and I disagree that this  
13 information is privileged.

14           **Q. (BY MR. HILTON) Ms. Newman, are you going to**  
15 **follow your counsel's instructions not to answer?**

16           A. I am.

17           **Q. Okay.**

18           MR. HILTON: And, Ms. Branch, again, I'm  
19 not offended by your speaking objections; but they're  
20 not permissible under the rules. And so I'd just ask  
21 you to limit them.

22           MS. BRANCH: I'm trying to limit them as  
23 much as possible, and I understand. I don't want to  
24 testify. Jacqui's here to testify.

25           MR. HILTON: Thank you.



1           Q       (BY MR. HILTON) How much money did you say  
2 was spent in Texas in the 2018 election cycle?

3           A.     Over 6.7 million.

4           Q.     Is that reflected on Exhibit 7?

5           A.     No. No, because Exhibit 7 is showing our 2019  
6 year-end report.

7           Q.     If we were to look at the same form for 2018,  
8 the year-end, you know, report, would that show the  
9 expenditures in Texas?

10                   MS. BRANCH: Objection. Public.

11                   But you can answer to the extent that you  
12 know. It's all published information.

13           A.     It would show all of the money that we  
14 transferred to State Party committees and other  
15 expenditures made at a general level.

16           Q.     (BY MR. HILTON) Would I have to look at the  
17 Schedule B to that 2018 year-end report to find the  
18 disbursements related to Texas?

19           A.     Yes, and you would have to look at all of the  
20 reports, probably.

21           Q.     Okay. Did you look at any of those reports in  
22 preparation for your deposition?

23           A.     I did not.

24           Q.     And I'm so sorry. This is like the fourth  
25 time I've asked you: What was that number, again, that

1 **was spent in the 2018 election cycle in Texas?**

2 MS. BRANCH: Objection, asked and  
3 answered.

4 You may answer.

5 A. It was over 6.7 million.

6 **Q. (BY MR. HILTON) And what was that money used**  
7 **for?**

8 A. It was used for persuasion and mobilization of  
9 voters in support of our campaigns in Texas.

10 **Q. Voter persuasion and mobilization of**  
11 **campaigns?**

12 MS. BRANCH: Objection, mischaracterizes  
13 the testimony.

14 You may answer.

15 **Q. (BY MR. HILTON) Voter persuasion and**  
16 **mobilization of voters?**

17 A. Yes.

18 **Q. Is that what you said?**

19 A. Yes.

20 **Q. Is that what you said? I just didn't hear it.**

21 A. Yes.

22 **Q. Anything else that it was used for?**

23 A. I think that encompasses a lot of activities,  
24 but...

25 **Q. Are there any other types of activities that**

1    **that doesn't encompass?**

2                   MS. BRANCH:  Objection, vague.

3                   You may answer.

4           A.    You know, again, I think everything is --  
5   everything we do is to an end of mobilizing and  
6   persuading voters.

7           **Q       (BY MR. HILTON)  I'm going to ask you to pull**  
8   **up Exhibit 1, which was sent out earlier.  It's the**  
9   **Deposition Notice, and I'd like to turn to page 5 of the**  
10 **Notice.**

11          A.    Okay.

12          **Q.    And I'm looking at Topic 4, section --**  
13 **subsection (b).  And starting with the year 2014, what**  
14 **were the total funds spent on voter persuasion efforts**  
15 **in Texas during the year 2014?**

16          A.    So I looked into our spending in the past  
17   cycles and I can share with you what we've spent in  
18   Texas, but this doesn't necessarily align with how we  
19   track or know our spending.

20          **Q.    How do you track your spending?**

21          A.    It's more general than this because, again,  
22   we're kind of thinking of everything in terms of  
23   everything is a voter persuasion effort or GOTV effort.

24          **Q.    So the entirety of the 6.8 million, or**  
25 **whatever the number was that you spent in Texas in 2018,**

1 for example, that was all spent on voter persuasion and  
2 Get Out the Vote?

3 A. Yes.

4 Q. What about voter registration efforts, can you  
5 break that out?

6 A. For past cycles I cannot.

7 Q. That relates to 2014 through 2019, I suppose?

8 A. Through 2018. I can speak to our voter  
9 registration efforts this cycle.

10 Q. Well, let's leave this cycle aside for a  
11 second; and let's stick on the past ones then. So what  
12 were the total funds spent on all activities in Texas in  
13 the year 2014?

14 A. It was just over \$3.1 million.

15 Q. And that was all spent on voter persuasion and  
16 Get-Out-the-Vote efforts?

17 A. Yes.

18 Q. And you can't tell me what portion was spent  
19 on voter registration efforts?

20 A. Correct.

21 MS. BRANCH: Objection. She's asked and  
22 answered. To the extent that these questions call for  
23 strategic information, I'm going to object on the basis  
24 of the First Amendment.

25 But you may answer at a high level.

1           **Q.     (BY MR. HILTON)   Are there any activities**  
2 **other than voter persuasion, Get Out the Vote, or voter**  
3 **registration activities on which DCCC spent money in**  
4 **2014?**

5           A.     In Texas?

6           **Q.     In Texas.**

7           A.     Not to my knowledge.

8           **Q.     How about the year 2015, what was the total**  
9 **amount of funds spent on all activities in Texas?**

10                   MS. BRANCH:   Same objection.

11                   But you may answer at a high level.

12                   First Amendment.

13                   MR. HILTON:   I'm sorry.   What's the  
14 objection?

15                   MS. BRANCH:   First Amendment.

16                   You may answer at a high level.

17                   I think the witness --

18           **Q.     (BY MR. HILTON)   The question is the total**  
19 **funds spent on all activities in Texas in the year 2015.**

20           A.     So we -- and I apologize if I didn't mention  
21 this earlier.   We look at all of our spending on a  
22 cyclical basis.   So the years 2015 and 2016 would be  
23 grouped together.   So I don't know exactly how much we  
24 spent in 2015.   I would actually guess it's little to  
25 nothing, just because it's the off year; and most of our

1 spending is in the on year. But I can tell you in 2016  
2 the DCCC spent just over \$6 million in Texas.

3 **Q. And you did mention the two-year cyclical**  
4 **nature earlier, and now it's starting to make a little**  
5 **more sense. What kind of activities and expenditures do**  
6 **occur in the off year?**

7 MS. BRANCH: Objection to the extent it  
8 calls for First Amendment privileged information.

9 You may answer at a high level.

10 A. It's generally limited; but if coordinated  
11 campaigns are beginning to get set up, there might be  
12 Coordinated Campaign expenses we're transferring to the  
13 Party. Voter registration may begin in an off year.  
14 That is usually it. The bulk of our spending takes  
15 place in the on year, usually, as we get closer in to  
16 the election.

17 **Q. (BY MR. HILTON) Are you withholding**  
18 **information in your answer based on your instruction**  
19 **from counsel?**

20 MS. BRANCH: Objection.

21 You may answer.

22 MR. HILTON: What's the basis?

23 MS. BRANCH: Attorney-client privilege.

24 I mean, she answered on the record. You asked her  
25 earlier.

1 Q. (BY MR. HILTON) Let me explain my question a  
2 little more. Your counsel instructed you -- objected on  
3 the basis of a First Amendment privilege and stated that  
4 you could answer to the extent it doesn't reveal  
5 privileged information and that you could answer at a  
6 high level.

7 MR. HILTON: Is that a fair  
8 characterization of your objection, Ms. Branch?

9 MS. BRANCH: It is.

10 Q. (BY MR. HILTON) Okay. You heard that  
11 objection, Ms. Newman?

12 A. I did.

13 Q. And did your answer change on the basis of  
14 that objection?

15 A. It did not.

16 Q. So you would have given me the same answer  
17 regardless of whether your counsel objected?

18 A. Yes.

19 Q. Okay. That's all I'm asking. I just want to  
20 know if there actually is something being withheld when  
21 your counsel makes these objections, or not. So that's  
22 all I was trying to ask. Thank you for clarifying that.

23 All right. So let's go back to the  
24 questions from the topics, and we're dealing with this  
25 is in the two-year cycles; that's how y'all account for



1 it. And so in the 2016 election cycle, you spent just  
2 over 6 million on all activities in Texas. Do I  
3 remember that correctly?

4 A. Yes, that's correct.

5 Q. What was the total amount spent on voter  
6 persuasion efforts in that election cycle?

7 A. Similar to what I said before. It is all kind  
8 of part of the same bucket of voter persuasion/GOTV  
9 efforts.

10 Q. And how much was spent on voter registration  
11 efforts?

12 A. I can't speak to that.

13 Q. Is that because you don't know?

14 A. Yes.

15 Q. And that's because DCCC doesn't track that  
16 information?

17 A. Yes, it has not been tracked like this in the  
18 past.

19 Q. Are there any other, you know, broad  
20 categories or buckets of activities other than voter  
21 persuasion, Get Out the Vote, and voter registration  
22 efforts on which DCCC spent money in the 2016 election  
23 cycle?

24 A. Spent money in general or spent money in  
25 Texas?

1 Q. I'm sorry. In Texas.

2 A. No, it's just this.

3 Q. Okay. How about the 2018 election cycle? So  
4 I understand that to mean from the -- you know, the  
5 presidential election in 2016 to the presidential  
6 election in or -- I'm sorry -- for the federal election,  
7 the congressional election in 2016, to the congressional  
8 election in 2018. That's how I'm thinking of the  
9 two-year cycle. Is that how y'all measure it as well?

10 A. Yeah, more or less. I mean, we kind of  
11 started at January 1st.

12 Q. Okay. So it would be -- it's really the  
13 calendar years 2017 and 2018?

14 A. Yeah.

15 Q. Okay. So for that period, 2017 to 2018, or  
16 the 2018 election cycle, what was the total amount spent  
17 on all activities in Texas?

18 A. It was over \$6.7 million.

19 Q. And how much of that was spent on voter  
20 persuasion efforts?

21 A. Again, it's -- that 6.7 covers all of our  
22 voter persuasion and GOTV efforts in the 2018 cycle.

23 Q. And how much of that just over 6.7 million, I  
24 think you said, was spent on voter registration efforts?

25 A. I don't know.

1 Q. And that's because DCCC doesn't have that  
2 information?

3 A. Yeah. And I'm not being deliberately vague  
4 here. It's most likely -- you know, we kind of see it  
5 all as one bucket of money that is going towards this  
6 cause; and we are, as mentioned before, transferring  
7 money to the Texas Democratic Party for the Coordinated  
8 Campaign where a lot of those voter registration efforts  
9 are taking place.

10 Q. And I'm not making a judgment as to whether  
11 you should or should not have this information or how  
12 you track it. I understand, you know, how y'all view  
13 it. It seems like it's all one bucket of activity that  
14 goes towards electing Democrats for the House, right?

15 MS. BRANCH: Objection, mischaracterizes  
16 the testimony. I think you should let the witness  
17 testify, so.

18 Q. (BY MR. HILTON) Is that a fair  
19 characterization of your testimony?

20 A. Yes, I think generally that's it.

21 Q. Okay. So I think we've finished 2018.

22 How about the current election cycle,  
23 what's the total amount that's been spent so far in the  
24 current election cycle?

25 A. So, so far this cycle, we've spent -- and you

1 can see this in -- I think, it's Exhibit 8, our  
2 transfers to the Texas Democratic Party. We've  
3 transferred over \$145,000 to the Texas Democratic Party.  
4 The DCCC has spent directly in Texas over \$1.1 million,  
5 and I believe over \$550,000 of that is directly related  
6 to voter registration in Texas.

7 **Q. \$550,000 of what has been spent so far is**  
8 **related to voter registration?**

9 A. Yes.

10 **Q. And how do you know that?**

11 A. Because we have been working with the Texas  
12 Democratic Party on voter registration, and we have --  
13 directly, the DCCC has engaged in voter registration on  
14 the ground. And I believe there -- I believe we have  
15 produced documents showing that commitment, but...

16 **Q. So I guess my question is: In previous**  
17 **election cycles, DCCC can't separate out exactly what**  
18 **was spent on voter registration; but for the current**  
19 **election cycle, you can. And I'm trying to understand**  
20 **why that's the case.**

21 A. Sure. Well, I mean, one, I think there is a  
22 large voter registration effort in Texas right now in  
23 particular; and so it's easy for us to identify that.  
24 You know, as I mentioned earlier, we have a lot of  
25 turnover each cycle; and so a lot of the people behind

1 spending decisions from past cycles aren't here to speak  
2 to how we spent money in the past. And, you know, I've  
3 directly been involved with some of these transactions  
4 and expenses, so I can speak to them.

5 **Q. And how are you able to get such a precise**  
6 **number for this year's expenditures on voter**  
7 **registration efforts?**

8 A. On the voter registration efforts?

9 **Q. Yes.**

10 **A. Well, the 145K that we have transferred to the**  
11 **Texas Democratic Party to date, that has all been to the**  
12 **Coordinated Campaign to support voter registration and**  
13 **then what we -- what I know we have spent on voter**  
14 **registration.**

15 **Q. Do you make any other transfers to any**  
16 **other -- does DCCC make any other transfers to any other**  
17 **groups for voter registration activities?**

18 A. To other state parties?

19 **Q. Any other groups in Texas. I'm sorry. And**  
20 **I'm doing a poor job of clarifying that, so I appreciate**  
21 **you noting that. I'm trying to ask about activities in**  
22 **Texas.**

23 A. To my knowledge, we have transferred the money  
24 to the Texas Democratic Party's Coordinated Campaign for  
25 voter registration and, again, we have engaged a vendor

1 ourselves to do voter registration efforts on the ground  
2 in Texas.

3 Q. I think that was mentioned in your colleague's  
4 Declaration, the vendor, if I remember that correctly.  
5 That's Exhibit 3.

6 A. Yes.

7 Q. And it looks like that's Paragraph 7 of the  
8 Declaration in Exhibit 3?

9 A. Yes.

10 Q. Agreement for nearly \$400,000 for a consultant  
11 to provide voter registration services in Texas  
12 Congressional District 23. That's what you're referring  
13 to?

14 A. Yes.

15 Q. And so what services is that consultant going  
16 to provide?

17 MS. BRANCH: Objection to the extent that  
18 this calls for strategic party information.

19 You may answer at a high level.

20 A. They help us go through our process of  
21 training staff on the ground to try to learn how to  
22 register people to vote in Texas.

23 Q. (BY MR. HILTON) And what does that training  
24 look like?

25 A. I am not very familiar on the details, but I

1 know that all -- anyone who is registering voters in  
2 Texas needs to be trained and deputized in order to do  
3 so.

4 Q. And who are the staff that you are training,  
5 like staff of whom?

6 A. So it depends, I think. You know, we hired a  
7 consultant who ran some of these efforts that's laid out  
8 in Exhibit 3. In that case the consultant has employees  
9 who are helping this effort in Texas.

10 We have -- with the money that we have  
11 sent to the Texas Democratic Party, I believe at least  
12 two people have been hired with the express purpose of  
13 assisting voter registration efforts.

14 And then we also have staff on the ground  
15 who work directly for the DCCC whose roles involve a lot  
16 of community engagement and help with voter  
17 registration.

18 Q. Do you know what -- so community engagement  
19 and voter registration, are those two different things?

20 A. I think so. I think maybe community  
21 engagement is an overarching bucket that could involve  
22 voter registration.

23 Q. What are the other types of buckets of  
24 activities that your direct staff in Texas are engaging  
25 in this cycle?



1           A.     They're organizing events. They are meeting  
2 with our constituents in the districts. They are  
3 following events of our challengers, as well, and  
4 reporting back to the team on what's happening on the  
5 ground in Texas.

6           **Q.     Anything else?**

7           A.     I think that's the bulk of it.

8           **Q.     Do you know what percentage of their time is**  
9 **devoted to voter registration efforts?**

10          A.     I don't.

11          **Q.     Does anyone at DCCC?**

12          A.     I think our field team would. I also think it  
13 probably shifts throughout the cycle. You know, early  
14 on, when there is time to register voters, that is a  
15 bigger focus. I also think that we would be doing a lot  
16 of voter registration right now if we were not in the  
17 current situation we are in, speaking from our homes.

18          **Q.     Yeah. Yeah, I can only imagine how much that**  
19 **has kind of thrown a wrench in everything. And so,**  
20 **yeah.**

21                   Well, let me ask you this: Turning back  
22 to Exhibit 3, Paragraph 6, the last sentence of that,  
23 the second sentence of that paragraph, it says, "DCCC  
24 uses voter registration not only to expand the pool of  
25 individuals who are eligible to vote for Democratic

1 candidates but also to have important conversations with  
2 people about the importance of voting and important  
3 causes to the Democratic Party." Did I read that  
4 correctly?

5 A. Yes.

6 Q. Can you explain what is meant by this?

7 A. Sure. I think in the process of registering  
8 people to vote, people who are not currently registered  
9 or participating in the voting process, it allows you to  
10 start a dialogue about why it's important for people to  
11 register and to show up and make a plan about voting on  
12 Election Day, which is what getting out the vote is all  
13 about.

14 Q. And how about important causes to the  
15 Democratic Party? How does that piece of it play into  
16 these voter registration efforts?

17 A. I think that usually the important causes tie  
18 back to what somebody's motivation might be to vote.

19 Q. How do all of these purposes get accomplished  
20 when you're engaging in efforts to register voters?

21 A. I'm sorry. Could you clarify the question?

22 Q. Well, it seems to me there's a few different  
23 purposes to DCCC's voter registration efforts, as  
24 explained in Paragraph 6 of Exhibit 3. And as you're  
25 explaining to me now, it's to expand the pool of

1 individuals, to have important conversations with people  
2 about the importance of voting, and conversations about  
3 important causes to the Democratic Party. I'm trying to  
4 understand how all of those purposes are accomplished.  
5 So how do the voter registration activities address all  
6 of those purposes? What do you do to achieve those  
7 purposes in the context of your voter registration  
8 efforts?

9 A. I think that this is all part of one  
10 conversation that naturally flows together where, you  
11 know, it might look something like, "Hey, are you  
12 registered to vote? Would you like to register to vote?  
13 And do you know there's an election coming in November?  
14 If you register to vote now, you can participate in that  
15 or if there's a primary coming up, you can participate  
16 in that" and why it might be important to a voter to  
17 participate in that election and register at this time.  
18 I really think of it as all one conversation, not  
19 necessarily three different or a few different goals.

20 Q. Okay. So this is -- all of these things are  
21 part of every conversation with someone who you're  
22 trying to engage with; is that what you're saying?

23 A. Yes.

24 Q. Okay. That is helpful. Thank you for  
25 clarifying that.

1                   Is there -- sorry. I have a few  
2 follow-up questions on this, so I was trying to organize  
3 my thoughts. How does DCCC track the success of these  
4 kinds of voter registration efforts?

5                   MS. BRANCH: Object to the extent this  
6 calls for strategic information.

7                   But you may answer at a high level.

8                   A. We certainly want to know how many voters  
9 we've registered.

10                  Q     (BY MR. HILTON) So number of voters who get  
11 registered, how is that tracked?

12                  A. I am not familiar with the specifics, but  
13 usually the people who are tasked with registering  
14 voters report back the top-line numbers.

15                  Q. The top-line number being the total number of  
16 people who are registered?

17                  A. Yes.

18                  Q. Is that tracked for the whole cycle or by  
19 activity or by location? What are some of the ways in  
20 which that's broken down?

21                  A. Yeah --

22                  MS. BRANCH: Again, I'm going to assert  
23 the same objection on First Amendment grounds.

24                  You can answer at a high level.

25                  A. I think it depends based on who's in charge of

1 the program, but it could be any of those things. It  
2 could be just number of people or by the specific  
3 activity, like, "This is how many people got registered  
4 today at this event" or in a place.

5 Q (BY MR. HILTON) Are there any other ways in  
6 which it's tracked?

7 A. Not that I can think of.

8 Q. Can DCCC apportion a cost to register each new  
9 voter?

10 A. I guess it's possible.

11 Q. Is that something that DCCC has already done?

12 A. No.

13 Q. That's not data that DCCC has?

14 A. Correct.

15 Q. And when you said it was possible, what did  
16 you mean by that?

17 A. I mean, I think you could come up with some  
18 metric of how much money we are spending as it relates  
19 to how many people we are able to register to vote.

20 Q. But DCCC does not have any such metric  
21 currently?

22 MS. BRANCH: Objection, asked and  
23 answered.

24 A. No, not to my knowledge.

25 Q (BY MR. HILTON) Has DCCC had a metric like

1 that at any time from the beginning of 2014 to the  
2 present?

3 A. Not to my knowledge.

4 Q. How does the DCCC decide which voters to  
5 target?

6 MS. BRANCH: Objection, First Amendment  
7 privilege.

8 You can answer at a high level to the  
9 extent you can. We can't disclose targeting and  
10 strategic information.

11 A. There are ways that we're able to identify  
12 voters who are likely to support Democratic candidates  
13 or vote for Democrats.

14 Q. (BY MR. HILTON) So that's the target group,  
15 is folks you expect to vote Democratic?

16 A. Yes.

17 Q. How does DCCC decide which types of voter  
18 registration efforts to pursue?

19 MS. BRANCH: Again, same objection.

20 You can answer at a high level.

21 And that's to First Amendment, to  
22 clarify.

23 A. I think it's probably a variety of factors  
24 based on where our targeted races are as far as priority  
25 districts for the DCCC and where we are able to make an

1 effort and a successful activity out of registering  
2 voters.

3 Q. (BY MR. HILTON) Does DCCC adjust its  
4 activities based on a success rate?

5 A. Yeah. I want to be clear that I don't know if  
6 there's necessarily, like, a success rate or a  
7 definition; but, you know, we certainly aren't going to  
8 engage in efforts where -- in voter registration efforts  
9 where it's not possible because of, like, geographic or  
10 logistics.

11 Q. Who makes those kinds of decisions?

12 MS. BRANCH: Objection, First Amendment  
13 privilege. I'm going to instruct the witness not to  
14 answer that.

15 MR. HILTON: And so to be clear, my  
16 question is: Who at the DCCC decides whether to adjust  
17 voter registration activities and how they do that. And  
18 you're instructing the witness not to answer?

19 MS. BRANCH: I mean, I think that you  
20 have that information. If you want to pursue a high-  
21 level line of questioning, I'm okay with that; but my --  
22 what I think we're doing is going into the strategy of  
23 how the D-Trip targets voters for voter registration.  
24 And that is protected by the First Amendment.

25 So, Jacqui, if you want to answer that



1 question, that's fine.

2 And maybe we can have the court reporter  
3 read that back; but beyond that, I'm going to object.

4 MR. HILTON: I'll restate my question.

5 **Q. (BY MR. HILTON) Who at DCCC adjusts which**  
6 **voter registration efforts that the group is going to**  
7 **engage in?**

8 A. I think that a lot of that responsibility  
9 falls on the National Field Director.

10 **Q. And how are those decisions made?**

11 MS. BRANCH: Objection. I'm going to  
12 instruct the witness not to answer.

13 Is now maybe a good time to break for  
14 lunch? I don't mean to interrupt.

15 MR. HILTON: Well, I think now is a good  
16 time to take a break. I need, like, ten minutes; but if  
17 y'all want to take longer, that's fine, whatever y'all  
18 want to do.

19 MS. BRANCH: Can we do -- well, can I ask  
20 you how long you may have after lunch, if you have a  
21 rough estimate?

22 MR. HILTON: I don't know. I need the  
23 ten minutes to figure out what I'm going to do next.

24 MS. BRANCH: Okay. Well, I think we  
25 need -- Jacqui, is 30, 45 minutes good for a you?

1 THE WITNESS: Yeah, 30 minutes should be  
2 fine for me.

3 MS. BRANCH: Okay. That will be 1:50.

4 MR. HILTON: All right. We can go off  
5 the record.

6 THE REPORTER: Going off the record at  
7 12:29 p.m.

8 (Off the record from 12:30 to 1:05 p.m.)

9 THE REPORTER: We're back on the record  
10 at 1:05 p.m.

11 Q (BY MR. HILTON) All right. Ms. Newman,  
12 before we broke we were talking about voter registration  
13 activities and expenditures. And we, I think, had  
14 covered most of what I wanted to cover; but I just have  
15 a few -- couple of things to make sure I'm tying up all  
16 that that I want to discuss with you today.

17 So for the 2018 cycle, which is the cycle  
18 where DCCC has some more insight into specific  
19 expenditures on voter registration, I just want to make  
20 sure that I have everything that you've told me so far  
21 correct. You've given money to -- DCCC has given money  
22 to the Texas Democratic Party that's earmarked for voter  
23 registration. DCCC has hired a vendor to help with  
24 voter registration efforts, which we discussed earlier  
25 in connection with the Declaration, which I think is

1 **Exhibit 3. Is there -- has anything else been spent**  
2 **that's been earmarked for voter registration efforts for**  
3 **the 2018 election?**

4 A. Sorry. To be clear, I think -- I think the  
5 money we are talking about right now is for the current  
6 cycle, the 2020 cycle.

7 Q. Sorry. Yes, I misspoke. For the current  
8 cycle, the 2020 cycle. So the TDP money that is  
9 earmarked and then the vendor for the 2020 cycle. Is  
10 there anything else at this time?

11 A. Specifically on voter registration at this  
12 time, I don't believe there is more money I can  
13 identify. I mean, I think I mentioned earlier we've  
14 spent up to -- or a little bit over 1.1 million in Texas  
15 alone; and that includes our offices and our staff on  
16 the ground. And, of course, you know, our staff is  
17 engaging in this, you know, community engagement; and  
18 they are out talking to voters and possibly registering  
19 voters as part of their daily activities. And that is,  
20 you know, like, wrapped up in their salary. It's not  
21 necessarily identified in the other money I identified  
22 for voter registration.

23 And I -- you know, I would say that we  
24 are still several months out from the election; and we  
25 will continue to make spending decisions as things

1 develop and get closer and that some of the difficulties  
2 we face just around, you know, confusion that Texas  
3 voters might have around changing their address or  
4 renewing their information online and not being able to  
5 simultaneously register to vote will inevitably lead us  
6 to have to spend more money on voter registration and  
7 more time making sure we are educating voters, that they  
8 know that they might not have been registered to vote or  
9 had their address updated if they changed any  
10 information online through the DPS website.

11 Q. (Inaudible.)

12 THE REPORTER: I'm sorry. Something's  
13 happened to your audio.

14 MR. HILTON: (Inaudible.) Better?

15 THE REPORTER: Not really.

16 THE VIDEOGRAPHER: Something has gone  
17 wrong with your audio.

18 MR. HILTON: (Inaudible.)

19 THE VIDEOGRAPHER: It's a bandwidth  
20 issue. Yeah, it sounds like you're having bandwidth  
21 issues. The audio seems to be cutting out, Chris.

22 MR. HILTON: Yeah, I don't know. Nothing  
23 has changed on my end (echoing audio.)

24 THE VIDEOGRAPHER: We had the same  
25 problem the other day with Mr. Geise. Are you using a

1 headset?

2 MR. HILTON: I am not (echoing audio.)

3 THE VIDEOGRAPHER: So you're just using  
4 your laptop audio?

5 MR. HILTON: Yes, sir. Should I drop off  
6 and reconnect (echoing audio)?

7 THE VIDEOGRAPHER: Let's try that, yeah,  
8 just kind of an if you restarted your computer type of  
9 situation. Just log out and then log back in and see if  
10 that doesn't correct the issue.

11 THE REPORTER: I'm going to take us off  
12 the record at 1:10 p.m.

13 (Off the record from 1:10 to 1:12 p.m.)

14 THE REPORTER: We are back on the record  
15 at 1:12 p.m.

16 Q (BY MR. HILTON) Ms. Newman, how much more  
17 time and money will you have to spend?

18 A. I think it's hard to say at this point as,  
19 again, we're several months out from the election. I  
20 also think, you know, the current COVID-19 crisis we're  
21 in may have an outside impact on this because fewer  
22 people will be able to go into DPS in person and change  
23 their information and update their voter registration.

24 So I think it's too far out to put a  
25 number on it; but given that we've already invested, you

1 know, over a half a million dollars to date, you know, I  
2 do not think that it is a small -- small investment.

3 **Q. How much more do you plan to spend on voter**  
4 **registration efforts in Texas?**

5 MS. BRANCH: Objection to the extent that  
6 this calls for strategic information.

7 If you know, you can answer.

8 A. I -- you know, again, I don't know if that has  
9 been decided yet. I think it will depend as things  
10 shape up with the current environment; and as we get  
11 closer to the election, those expenditures are usually  
12 decided.

13 **Q. (BY MR. HILTON) How much money did DCCC spend**  
14 **on voter registration efforts in Texas for this election**  
15 **cycle prior to January 21st, 2020?**

16 A. At least 40, \$45,000. \$45,630.

17 **Q. That was the transfer to TDP that we looked at**  
18 **earlier on one of the exhibits?**

19 A. Yes. And, you know, I would ad that we've had  
20 our staff on the ground in Texas in 2019. So they were  
21 beginning to engage in these activities.

22 **Q. And I appreciate you mentioning that when I**  
23 **was trying to get my arms around all the voter**  
24 **registration activities for the staff. And we talked**  
25 **about earlier you couldn't really break down what**

1 percentage of their duties were related to voter  
2 registration. Am I remembering that correctly?

3 A. Yes, that's correct.

4 Q. Okay. Are there any other activities for  
5 this -- or expenditures of funds for the 2020 election  
6 cycle that we haven't touched on yet?

7 MS. BRANCH: Objection, vague. Is that  
8 related to voter registration or just expenditures  
9 generally?

10 MR. HILTON: I'm sorry. I thought I said  
11 voter registration.

12 A. No, I think we've basically covered it.

13 Q. (BY MR. HILTON) How much of that money has  
14 gone to try to register voters who change their address  
15 or renew their driver's license online with DPS?

16 A. I don't know if there's a specific dollar  
17 amount associated with that. I think that's just part  
18 of our ongoing voter education effort to make sure when  
19 we're talking to voters, "Are you registered to vote?"  
20 Making sure they are aware that if they've moved  
21 recently, depending on how they conducted that  
22 transaction online, that if it was online versus in  
23 person, that their information is treated differently  
24 than going in person to change that and that they might  
25 not, in fact, be registered to vote at their current



1 address.

2 Q. Does DCCC keep track of the number of people  
3 who it talks to who change their address or renew their  
4 driver's license online with DPS?

5 MS. BRANCH: Objection to the extent that  
6 this calls for strategic information.

7 But you may answer.

8 A. Not that I'm aware of.

9 Q (BY MR. HILTON) Do you have any -- does DCCC  
10 have any training materials that reflect those kinds of  
11 conversations that you were just referring to?

12 MS. BRANCH: Objection, vague, First  
13 Amendment privilege.

14 A. Not that I'm aware of. I think, you know, the  
15 information required is part of the reason why we engage  
16 a consultant on the ground to run some of this. You  
17 know, it's difficult to register voters in Texas; and it  
18 requires a high level of expertise. I think a lot of  
19 these activities also go through the Texas Democratic  
20 Party for these reasons.

21 Q. (BY MR. HILTON) Okay. So leaving aside what  
22 the Texas Democratic Party might have, DCCC doesn't have  
23 any training materials reflecting how to have these  
24 conversations beyond what a vendor might have?

25 MS. BRANCH: Objection. I think that's

1 been asked and answered. I also think that it calls for  
2 internal materials in the content of what's reflected in  
3 those. So I'm going to instruct the witness not to  
4 answer that question.

5 **Q. (BY MR. HILTON) So my question is: Does DCCC**  
6 **have any materials that reflect training with respect to**  
7 **how to have these kinds of conversations for voter**  
8 **registration efforts?**

9 A. I don't believe we have any public materials.

10 **Q. Do you have any non-public materials?**

11 MS. BRANCH: Again, I maintain the  
12 objection and instruct the witness not to answer.

13 MR. HILTON: Okay. So you won't allow  
14 the witness to answer as to the existence of such  
15 materials?

16 MS. BRANCH: She's already answered the  
17 question.

18 **Q. (BY MR. HILTON) Do such materials exist,**  
19 **Ms. Newman?**

20 A. I'm not going to answer.

21 **Q. And is that at counsel's instruction?**

22 A. Yes.

23 **Q. Okay. And no such materials were produced to**  
24 **us?**

25 A. Correct.

1           **Q.    Why is registering voters in Texas important?**

2           **A.    Voter registration is important in Texas**  
3 **because we have several priority targeted races.   We**  
4 **have two -- we call them frontline districts, as well as**  
5 **a handful of red-to-blue districts, that signify**  
6 **priority within the DCCC.   And registering voters makes**  
7 **sure that we are broadening the people who are turning**  
8 **out to vote for these candidates and members of**  
9 **Congress.**

10                   MR. HILTON:   All right.   Maybe now is a  
11 good time to switch over and talk about -- we had a  
12 discussion earlier about the Blue Texas Fund and  
13 documents showing DCCC's, you know, relationship  
14 involved with something related to the Blue Texas Fund.  
15 And, Ms. Branch, I believe you had a Bates number that  
16 we could refer to?

17                   MS. BRANCH:   Yes.   Let me just pull that  
18 up.

19           **Q.    (BY MR. HILTON)   And -- I'm sorry -- one more**  
20 **question I had on the -- going back to the vendor that**  
21 **y'all hired in Texas.**

22           **A.    Yes.**

23           **Q.    Did you produce any documents related to what**  
24 **that vendor is going to do for the DCCC?**

25                   MS. BRANCH:   Objection, those documents

1 are privileged. This calls for attorney-client  
2 privileged conversations regarding our discussions on  
3 what we produced in response to the subpoena.

4 Q. (BY MR. HILTON) Okay. I'm not intending to  
5 ask for any conversations between you and your counsel,  
6 Ms. Newman. I just want to know if any such documents  
7 have been produced. You have the entire production  
8 there in front of you, and you testified earlier that  
9 you're familiar with it. So that's why I asked you.

10 A. And can you repeat the original question?

11 Q. Are there any documents that will show what  
12 this vendor that you've engaged in Texas is going to do  
13 for the DCCC in the production?

14 A. I don't believe so, other than maybe a press  
15 release sharing that we're engaging in voter  
16 registration.

17 Q. Okay. And can DCCC identify any voters who  
18 have been registered to vote after -- by the DCCC, after  
19 they changed their address or renewed their driver's  
20 license online with DPS?

21 A. No, not that I'm aware of.

22 Q. Okay.

23 MR. HILTON: All right. And going back  
24 to this Blue Texas Fund issue.

25 MS. BRANCH: So it's Bates Number 665 is

1 one of the Blue Texas Fund mail pieces, and it shows a  
2 paid-for-by disclaimer.

3 MR. HILTON: 665, you said?

4 MS. BRANCH: Correct.

5 MR. HILTON: Okay. Great. Bear with me  
6 one second while I pull it up.

7 Q. (BY MR. HILTON) Oh, and, I guess, Ms. Newman,  
8 the same question: Could your vendor identify any such  
9 voters?

10 MS. BRANCH: Objection, First Amendment  
11 privilege. I'm going to instruct the witness not to  
12 answer.

13 Q. (BY MR. HILTON) Are you going to follow your  
14 counsel's instruction, Ms. Newman?

15 A. Yes.

16 MR. HILTON: Where am I going to find  
17 this document?

18 Gosh, that was on the record, wasn't it?  
19 I'm so used to talking to myself while I putz around my  
20 computer that it's really gotten me in trouble on this  
21 Zoom depo stuff. Sorry you have to watch my face while  
22 I confusedly look through my files here.

23 All right. And it was -- I'm sorry --  
24 665?

25 MS. BRANCH: 665 is the page -- one of

1 the pages that contains the disclaimer.

2 Q (BY MR. HILTON) All right. Ms. Newman, can  
3 you pull up page 665?

4 A. Yes.

5 Q. Let me know once you're there.

6 A. I'm there.

7 Q. All right. What is this -- what is this  
8 document?

9 A. This is a mailing from the Blue Texas Fund;  
10 and I guess to confirm what we discussed earlier, this  
11 is a joint fundraising committee that is with Colin  
12 Allred for Congress, Elizabeth Pannill Fletcher, for  
13 Congress, and the DCCC.

14 Q. Okay. So those are all the folks who are part  
15 of this joint fundraising committee?

16 A. Yes.

17 Q. Okay. I appreciate that. And I see here  
18 there are a couple of other kind of targeted races, I  
19 guess, listed in this mailing; but those campaigns are  
20 not part of the Blue Texas Fund?

21 A. Correct.

22 Q. So the Blue Texas Fund is raising money on  
23 their behalf, or what's the relationship to these other  
24 campaigns?

25 A. The Blue Texas Fund currently raises money for

1 just the committees that are listed in the disclaimer.

2 Q. Okay.

3 A. And, you know, again, these are two of our  
4 members of Congress who won in the 2018 election in  
5 Texas; and they are part of our highest priority races  
6 across the country and in Texas.

7 Q. Okay. I'd like to turn to another page from,  
8 I think, what we marked as Exhibit 4. It's the  
9 production from DCCC. It's a two-page document starting  
10 at Bates DCCC 661. Please let me know when you have  
11 that pulled up.

12 MS. BRANCH: You say Exhibit 4?

13 MR. HILTON: Yeah, the entire DCCC  
14 production is designated as Exhibit 4 for the purposes  
15 of the deposition. So I'm just referring to particular  
16 pages out of that.

17 A. I have this pulled up.

18 Q (BY MR. HILTON) All right. 661, we had  
19 looked at that earlier; it wasn't what I thought it was.  
20 So maybe you can kind of explain to me what I'm looking  
21 at here. It's a map of the United States, obviously.  
22 And it has a bunch of races listed, and there's a key  
23 for certain symbols. So maybe you can kind of break  
24 this down for me.

25 A. Sure. This is our House battlefield that



1 highlights our frontline candidates. These are our, you  
2 know, kind of our targeted members who are running for  
3 re-election. And you'll see, again, that includes  
4 Lizzie Fletcher and Colin Allred in Texas.

5 Q. And so what are each of the categories listed  
6 here? Like, it says, Frontline Candidates, Red to Blue,  
7 Offensive Battlefield Districts, Expanded Battlefield  
8 Districts, and a bunch of different campaigns or states  
9 listed under each category.

10 Could you go through each of these  
11 categories and explain to me what they are and how they  
12 differ from each other? I understand you're saying  
13 they're all targeted in some way, but maybe you could  
14 explain why they're broken out separately on this  
15 document.

16 A. Sure. So our frontlines are incumbent members  
17 of Congress. Red to Blue are the first tier of targeted  
18 challenger races. So these are people who are hoping to  
19 unseat a Republican member of Congress. And this  
20 document actually might be slightly out of date because  
21 we have Texas 21 and Texas 23 listed here as red-to-blue  
22 districts, but we've also recently added Texas 22 to  
23 this list.

24 Q. I see -- I'm sorry to interrupt. I see a date  
25 at the bottom that's March 5th, 2020. Would this list

1 be accurate as of that date?

2 A. Yes. Yes, it is.

3 Q. Okay. You can continue from there. I  
4 appreciate that.

5 A. Well, I think coming out of the recent Texas  
6 primary, we were able to add an additional district to  
7 this. And then we have our Offensive Battlefield  
8 Districts; and, you know, this is almost like -- if Red  
9 to Blue was our top priority, then this is the next  
10 priority.

11 Q. It looks like you're trying to unseat a  
12 Republican incumbent or claim an open seat that was  
13 previously held by a Republican?

14 A. Yes, exactly. And then our Expanded  
15 Battlefield Districts. It is also a version of that,  
16 kind of showing the priority.

17 And then there's just some helpful other  
18 information here that may or may not be relevant to  
19 Texas, remaining districts that were won by Hillary  
20 Clinton but still held by Republicans. Democrats  
21 running in districts that Trump won. Districts that  
22 have Republican retirements this year or this cycle.  
23 And then where we have battle stations, which are  
24 offices -- that's what we like to call them -- and field  
25 managers on the ground.

1 Q. Okay. Politics is a full-contact sport. So  
2 you've got to get into the mindset. I get it.

3 It sounds like these categories are  
4 listed in rough order of priority, seem to be. That was  
5 my impression from how you were describing them. Is  
6 that fair?

7 A. Yeah. I think, you know, kind of through the  
8 expanded battlefield districts; and then those remaining  
9 sections are more just information points.

10 Q. Got it.

11 And I think I have one more document that  
12 I wanted to review with you, and that's DCCC 455. And  
13 this is part of Exhibit 4, which is DCCC's document  
14 production. And just let me know when you have that up.

15 A. 455?

16 Q. Yes.

17 A. Okay. I have that up.

18 Q. All right. And 455 is the first page of a  
19 two-page document. Can you tell me what this document  
20 is, please?

21 A. Sure. This is, I guess, a two-page memo, not  
22 necessarily a one-pager, that overviews our member  
23 programs, our member dues program, in particular. And  
24 this is shared with members within our caucus and speaks  
25 to how we recognize members who participate through

1 paying dues to the DCCC.

2 Q. Who are the members of the DCCC?

3 MS. BRANCH: Objection to the extent that  
4 this calls for a legal conclusion.

5 But you may answer the question.

6 A. Yeah. I realize now that there's a very legal  
7 definition for the term "member" that I can't  
8 necessarily speak to; but in the DCCC's mind, our  
9 members are members of -- Democratic members of Congress  
10 that are in our caucus.

11 I think that "member" in kind of a  
12 broader term, we also think about Democratic voters as a  
13 whole who participate in any of our activities, whether  
14 it's donating to us or volunteering or supporting and  
15 voting Democratic. You know, those people who we see as  
16 our constituents because we represent them also kind of  
17 sometimes get thrown around as, like, a member; but,  
18 really, it's our members of Congress.

19 Q. (BY MR. HILTON) Okay. And I'm not asking for  
20 a legal definition. I understand you're not an  
21 attorney. I'm trying to understand how DCCC uses that  
22 term, I guess. And I understand that it's the members  
23 of Congress and then, in a broader sense, the  
24 constituents who are members of the Party. Which of --  
25 which people would participate in the member dues

1 **program?**

2 A. The majority of our members participate in  
3 this.

4 **Q. And by that, you mean the Democratic --**

5 A. Members of Congress.

6 **Q. And then it has, I guess -- this document**  
7 **describes -- like, is this tiers of membership or**  
8 **different types of membership? Can you explain to me**  
9 **what the DCCC Gavel Society, the Leadership Circle, and**  
10 **Point Guards are?**

11 MS. BRANCH: Objection to the extent that  
12 it calls for privileged information.

13 But you can describe at a high level, and  
14 you can certainly speak to what the document states.

15 MR. HILTON: And that's my question.

16 A. Yeah. What's laid out here is -- it is  
17 basically levels of recognition for participating in  
18 this program, yeah.

19 **Q. (BY MR. HILTON) And how is it -- how do**  
20 **you -- how does a member qualify for the Gavel Society**  
21 **or the Leadership Circle or as a Point Guard?**

22 A. That's a discussion with our member dues team.

23 **Q. Is it based on, like, the amount of**  
24 **fundraising that they contribute?**

25 MS. BRANCH: Objection, First Amendment

1 privilege.

2           Jacqui, if this is something that's  
3 publicly available or not internal to the D-Trip, you  
4 can answer it.

5           But, otherwise, I'm going to instruct the  
6 witness not to answer.

7           A. It has been publicly reported that members  
8 generally can earn -- and this is kind of laid out in  
9 the Point Guard section -- earn points for participating  
10 in activities with the DCCC or through paying dues and  
11 raising money for the committee.

12           **Q. (BY MR. HILTON) Are you withholding**  
13 **information on the basis of your counsel's objection?**

14           A. No. That is basically it.

15           **Q. Okay. I appreciate that.**

16                       **Is there any other way to get a DCCC**  
17 **coffee mug, or do you have to get 150 points in the**  
18 **Point Guard program?**

19           A. Sometimes asking nicely does end in a coffee  
20 mug.

21           **Q. I'll keep that in mind. Do you have a coffee**  
22 **mug?**

23           A. I do.

24           **Q. Do you have it handy? I'm kind of curious as**  
25 **to what it looks like.**

1           A.     I don't have it handy. I keep it at work  
2 because it's, like, 24 ounces.

3           Q.     Oh, I gotcha. Lots of late nights, I suppose,  
4 at the DCCC, where you need a lot of coffee.

5                     All right. Bear with me just one second.  
6 Let me look at my notes here. I think this is about all  
7 I have.

8                     I appreciate your patience with the  
9 technological issues, with going through these  
10 documents, with kind of the mechanical nature of my  
11 questions, and, you know, again, your patience with your  
12 counsel and I while we discussed our disagreements.

13                    I hope I've otherwise been professional  
14 to you as we've gone through this.

15                    And that reminds me, I should have asked:  
16 On the two breaks that we took today -- I think it was  
17 two, maybe three -- did you discuss the substance of  
18 your testimony with anyone during those breaks?

19                    MS. BRANCH: Objection to the extent that  
20 this calls for attorney-client privileged information.

21                    You can answer as to whether or not you  
22 spoke with anyone, but you can't discuss the content of  
23 the conversations.

24           A.     I did check in with my counsel on the breaks.

25           Q     (BY MR. HILTON) And did you discuss the



1 **substance of your testimony?**

2 MS. BRANCH: Objection, and I'm going to  
3 instruct the witness not to answer.

4 MR. HILTON: Okay. I'll just note for  
5 the record that I believe I'm entitled to that  
6 information since the witness has been under oath all  
7 this time.

8 Q. (BY MR. HILTON) All right. So I think the  
9 last thing we need to do is turn back to Exhibit 1,  
10 which is the Deposition Notice.

11 A. Okay.

12 Q. And I'd like to go to the last page of  
13 Exhibit 1. That's the document request.

14 A. Okay.

15 Q. And I'd like to just kind of go through each  
16 of these and make sure I understand -- or just have you  
17 confirm again that we've gotten a full production.

18 So Document Request Number 1, did the  
19 DCCC produce documents responsive to this request?

20 MS. BRANCH: Objection to the extent that  
21 this calls for attorney-client and attorney work  
22 product.

23 But, Jacqui, if you are able to answer,  
24 you may.

25 A. Yes, I believe we've turned over everything

1 that we could here.

2 Q. (BY MR. HILTON) Okay. And when you say "we  
3 could," I assume you're referring to your counsel's  
4 privilege -- her objection related to privilege?

5 MS. BRANCH: Objection, attorney work  
6 product, attorney-client privilege. I think the record  
7 speaks for itself on that.

8 You're inquiring about whether we  
9 instructed -- or, you know, how we put together the  
10 production and our discussions about asserting the First  
11 Amendment privilege, which I think is a conversation  
12 itself that is privileged.

13 MR. HILTON: I'm sorry. Let me clarify  
14 my question.

15 Q. (BY MR. HILTON) Ms. Newman, you said that you  
16 thought you'd turned over all the documents that you  
17 could; and I'm trying to understand what you meant by  
18 "you could." And I'm assuming that it's related to the  
19 privilege objection; and if so, I think that's the end  
20 of my questioning. But if there's something else that  
21 you're referring to, that's what I was trying to find  
22 out.

23 MS. BRANCH: You may answer that  
24 question, Jacqui.

25 A. Yeah. Yes.

1 Q. (BY MR. HILTON) So when you said you turned  
2 over all the documents you could, that was in reference  
3 to the privilege issues?

4 A. Yes.

5 Q. Okay. That's all I was trying to ask. And,  
6 again, I am not trying to ask for attorney-client  
7 privileged information.

8 Were documents withheld that would  
9 otherwise be responsive to this request?

10 MS. BRANCH: Again, I'm going to object  
11 on the basis of attorney work product and attorney-  
12 client privilege; and I'm going to instruct the witness  
13 not to answer that.

14 Q. (BY MR. HILTON) Do any other documents exist  
15 in the possession of DCCC that would substantiate the  
16 factual allegations of Paragraphs 13 and 29 to 35 of  
17 your Complaint?

18 MS. BRANCH: You can answer that,  
19 Ms. Newman.

20 A. Hold on. I just want to look at the  
21 Complaint.

22 Q. (BY MR. HILTON) Yeah, of course. Please take  
23 your time. Of course.

24 A. Can you remind me which --

25 Q. Exhibit 2.

1 A. Thank you. You said Paragraphs 13 to...

2 Q. 13 and 29 through 35. That's what's in the  
3 document request. And so I'm just trying to understand  
4 from you whether there are any documents that exist that  
5 would substantiate the factual allegations in these  
6 paragraphs that have not been produced to us. I'm just  
7 asking about the existence of such documents.

8 A. I believe we've turned over all the documents  
9 we could produce here.

10 Q. Okay. Great.

11 Number 2. Number 2 on Exhibit 1, on the  
12 last page, the second document request, did DCCC produce  
13 documents responsive to this request?

14 A. Yes.

15 Q. Okay. Are any -- do any documents exist that  
16 would be responsive to this request that were not  
17 produced?

18 A. I'm sorry. What number are we looking at now?

19 Q. This is Document Request Number 2, which is on  
20 the last page of Exhibit 1, which is the Deposition  
21 Notice.

22 I'm sorry. I haven't found a better way  
23 to do this in my career; and it's hard and kind of  
24 mechanical, but I just need to wrap -- you know, put a  
25 bow on the document.

1           A.    To my knowledge, we did not withhold anything  
2 related to this. I believe we've turned over everything  
3 we could. It might shock you to learn that the majority  
4 of our conversations are just sending press clips back  
5 and forth to one another.

6           **Q.    That was a little surprising, actually,**  
7 **because that was the bulk of the production. I'm not**  
8 **trying to ask for anything privileged or strategic, but**  
9 **I'm just kind of curious as to why that is. I mean,**  
10 **it's just such a foreign kind of work flow to me. I'm**  
11 **curious as to why that constitutes most of your**  
12 **communications.**

13          A.    I think that is -- you know, press clips are  
14 really the best way to guide what our strategy is and  
15 what's happening on the ground in all of these  
16 districts. You know, keep in mind, we're kind of  
17 looking at a 30,000-foot view of, you know, 30 to 50  
18 districts across the country; and so we're constantly up  
19 to date on what's happening there, what issues are  
20 arising in the districts, and how they might relate to  
21 the Congressional campaigns in those districts.

22          **Q.    Okay. I appreciate that. It's always**  
23 **interesting. That's one of the things I like about my**  
24 **job is I get insight into how other people do their**  
25 **jobs. I appreciate that.**

1                   So if I understand you correctly, you  
2   have produced documents responsive to Request Number 2  
3   and that no other documents exist that would otherwise  
4   be responsive?

5                   MS. BRANCH: I'm going to object just on  
6   the -- you know, the use of the term "responsive" and  
7   the legal conclusions and legal background associated  
8   with that term.

9                   But, Jacqui, to the extent that you can  
10   answer based on your knowledge, you may.

11                  A. Yes, I believe so.

12                  Q     (BY MR. HILTON) Number 3. Has DCCC produced  
13   all the documents responsive to Number 3?

14                  A. I believe we've produced documents that speak  
15   to these topics as long as they don't conflict with our  
16   strategy and attorney-client privilege.

17                  Q.    So that was my next question, privilege  
18   assertions...

19                  MS. BRANCH: Same objection, attorney  
20   work product, attorney-client privilege. The decision  
21   on --

22                  THE WITNESS: Did we just lose him?

23                  MS. BRANCH: Oh, I think we did.

24                  THE VIDEOGRAPHER: It appears that he did  
25   drop out of the meeting.

1 THE REPORTER: We're going off the record  
2 at 1:48 p.m.

3 (Off the record from 1:48 to 1:48 p.m.)

4 THE REPORTER: We're back on the record  
5 at 1:48 p.m.

6 MR. HILTON: All right. I'm sorry about  
7 that. Literally my last handful of questions, and my  
8 Internet connection's going out on me here.

9 Q (BY MR. HILTON) So I think my question was,  
10 for Number 3, whether documents have been withheld on  
11 the basis of privilege assertion.

12 MS. BRANCH: And I have an objection on  
13 that because the decision to withhold is attorney work  
14 product, and it was made by us. So I'm going to  
15 instruct the witness not to answer that.

16 MR. HILTON: Okay. So I just want to  
17 know whether any documents at all have been withheld,  
18 and you're instructing Ms. Newman not to answer that  
19 question?

20 MS. BRANCH: Yes. I think she's also  
21 testified to this multiple times throughout the  
22 deposition.

23 MR. HILTON: Be that as it may, with  
24 respect to Number 3, you're instructing her not to  
25 answer whether any documents are being withheld?



1 MS. BRANCH: Correct.

2 MR. HILTON: Okay.

3 Q. (BY MR. HILTON) With respect to Request  
4 Number 3, other than what's been included in the  
5 production, do any other documents exist that would show  
6 the information described or requested in the listed  
7 deposition topic numbers?

8 MS. BRANCH: Objection, attorney work  
9 product, attorney-client privilege.

10 You may answer the question if you know  
11 the answer.

12 A. Yes.

13 Q. (BY MR. HILTON) And some documents exist that  
14 would otherwise be response to Number 3 that have not  
15 been produced to us?

16 MS. BRANCH: Objection. Same objection.  
17 I'm going to instruct the witness not to answer. I  
18 think this is the same question, just kind of in a  
19 different phrase.

20 MR. HILTON: I'm sorry. I thought it  
21 was -- I'm trying to -- I mean, with respect,  
22 Ms. Branch, I think that I have the right to know  
23 whether documents have been withheld.

24 I'm not, even at this point, asking for a  
25 privilege log, which I also think I'm entitled to. I

1 just want to know if other documents exist because if  
2 they don't, then I don't think we have anything to  
3 quarrel about.

4 So you're instructing the witness not to  
5 answer the question of whether documents exist that have  
6 not been produced?

7 MS. BRANCH: So I think that that's a  
8 conversation that you and I can have; but I think that  
9 whether not documents exist on these topics, like, that  
10 reflects -- the answer that she's going to give is going  
11 to reflect our conversations. And so that is my basis  
12 for the objection.

13 MR. HILTON: I'm sorry. I just don't  
14 understand.

15 Q. (BY MR. HILTON) I just want to know if  
16 documents exist that would be responsive to Number 3.

17 MR. HILTON: And I'm asking Ms. Newman.  
18 And if you're going to let her answer, I'd like to know  
19 the answer; and if not, then we move on.

20 MS. BRANCH: I am going to instruct the  
21 witness not to answer.

22 Q. (BY MR. HILTON) Are you going to follow that  
23 instruction, Ms. Newman?

24 A. Yes.

25 Q. With respect to Document Request Number 4, did

1 **DCCC produce documents responsive to this request?**

2 A. I believe we did.

3 **Q. Okay. You can refer to Exhibit 4 and double-**  
4 **check if you are uncertain.**

5 A. I don't know, then.

6 **Q. So you don't know whether documents responsive**  
7 **to Request Number 4 have been produced?**

8 A. I mean, this -- a lot of this is public  
9 information that I think you've shown or gone over in  
10 other parts of this discussion.

11 **Q. Okay.**

12 MR. HILTON: I'm going to object to that  
13 answer as nonresponsive.

14 **Q. (BY MR. HILTON) I just want to know if it's**  
15 **included in DCCC's production.**

16 MR. HILTON: I'm sorry. It looks like  
17 I'm having a technical issue again. Was there an  
18 answer?

19 THE REPORTER: There wasn't an answer  
20 that I heard.

21 A. I mean, we've produced what we have.

22 **Q. (BY MR. HILTON) That's responsive to**  
23 **Number 4?**

24 A. Yes.

25 **Q. Okay. So no other documents exist that would**

1 be responsive to Number 4 other than what we've  
2 discussed today and that's included in the production?

3 MS. BRANCH: Same objection. And I just  
4 want to note, Chris -- and this might be a discussion  
5 for offline -- but the subpoena clearly states that it  
6 seeks only the minimum number of documents sufficient to  
7 show the information. So the fact that things are being  
8 withheld is in compliance with the subpoena. Whether or  
9 not they're being held on the basis of the First  
10 Amendment privilege, though, is an attorney work product  
11 and a privileged conversation. So that's my objection  
12 to the line of questioning.

13 MR. HILTON: I appreciate that. I am  
14 trying to ask both things. Okay? I'm trying to  
15 understand whether documents have been withheld on the  
16 basis of privilege and I'm trying to understand whether  
17 other documents exist that would otherwise be responsive  
18 but have not been produced because they were not  
19 necessary to be produced because of how we drafted our  
20 subpoena.

21 MS. BRANCH: I think all of that is  
22 attorney work product and strategic decisionmaking on  
23 the part of Ms. Newman's attorneys, and I'm going to  
24 instruct the witness not to answer.

25 MR. HILTON: Okay. And, Ms. Branch, in

1 case I'm being unclear, I'm not asking for the substance  
2 of any communication. I'm not asking for the substance  
3 of any documents. I'm not even asking for how many  
4 documents at this point. I'm just asking whether such  
5 documents exist, and you're claiming that's privileged  
6 information?

7 MS. BRANCH: I think she can answer the  
8 question as to whether additional documents exist, but  
9 the basis upon which they were withheld is attorney work  
10 product. That reflects our strategic decisionmaking.  
11 So I don't -- I mean, I don't think that was the  
12 question on the table. If the question is, "Are there  
13 additional documents that exist within the DCCC on this  
14 topic," she can answer that. But we can't -- she can't  
15 answer why they were or were not produced.

16 MR. HILTON: Debbie, can you read back my  
17 last question?

18 THE REPORTER: Okay.

19 (The requested material was read as  
20 follows:

21 "QUESTION: So no other documents exist  
22 that would be responsive to Number 4 other than what  
23 we've discussed today and in the production?")

24 THE REPORTER: Is that the question you  
25 were looking for?

1 MR. HILTON: That's exactly it.

2 MS. BRANCH: And that's with respect to  
3 Number 4?

4 MR. HILTON: I think that's what Debbie  
5 just read back, yes.

6 MS. BRANCH: You can answer that, Jacqui.

7 A. Yes, I think other documents exist; but we've  
8 produced what we've needed to to answer this request.

9 Q. (BY MR. HILTON) Let me ask you about that,  
10 actually. Currently on the DCCC's website there are a  
11 number of job openings posted; is that right?

12 A. Yes.

13 Q. And it's dccc.org/jobs, and it has a bunch of  
14 jobs listed. And if you click those jobs, it brings you  
15 to a job description. Are you familiar with what I'm  
16 talking about?

17 A. Yes.

18 Q. And did you produce job descriptions for  
19 current employees?

20 A. I don't believe so.

21 Q. Okay. Do job descriptions for current  
22 positions in DCCC exist?

23 A. Mostly.

24 I'm sorry. If you were talking, I just  
25 heard nothing.

1           Q.    I'm sorry. Did you produce all documents that  
2 you reviewed in preparation for your deposition?

3           A.    I'm sorry. Can you ask that again?

4           Q.    Did DCCC produce all documents that you  
5 reviewed in preparation for this deposition?

6           A.    I believe so.

7           Q.    Would you like to check the production?

8           A.    I mean, I think there are some documents in  
9 here that come from...

10                   Yes, I believe we did.

11                   MR. HILTON: And, Ms. Branch, you're not  
12 going to allow the witness to answer whether documents  
13 were withheld on the basis of privilege with respect to  
14 any of these requests?

15                   MS. BRANCH: No. I think that that is a  
16 conversation that reflects our privileged discussions;  
17 and, frankly, I don't know that she knows. She's not a  
18 lawyer.

19                   MR. HILTON: Well, if that's her answer,  
20 then I don't really know why we're fighting about it.

21                   MS. BRANCH: Can we have a discussion  
22 about this separately? I think that Jacqui, Ms. Newman,  
23 has answered a lot of the questions related to the  
24 production to the best extent of her knowledge; but I  
25 don't want to get into a situation where she's talking



1 about strategic decisions that attorneys made. And she  
2 honestly probably can't testify to those, anyway; but  
3 they would reflect our conversations, which I think we  
4 both agree are privileged.

5 MR. HILTON: Okay. I'm not asking about  
6 privileged conversations. I'm not asking about any  
7 strategic determinations. You've put forth Ms. Newman  
8 as a 30(b)(6) representative for the DCCC to speak on  
9 behalf of the documents produced in response to the  
10 subpoena. And so, you know, I'm just not asking for  
11 privileged information. And she has a duty to be  
12 prepared as to these topics.

13 Ms. Newman, this is not a reflection on  
14 you at all.

15 But I'm going to object to this witness  
16 being insufficiently and inadequately prepared for this  
17 deposition today as to a number of topics. I'm also  
18 going to object to insufficient document production.  
19 You're not even letting me explore the ways in which it  
20 was insufficient, so I don't even know the depth of the  
21 insufficiency.

22 I'm going to object to your failure to  
23 provide a privilege log, your failure to disclose  
24 whether documents have even been withheld on the basis  
25 of a privilege.

1 And I'm going to object to your improper  
2 instructions not to answer and your improper objections  
3 throughout this deposition.

4 On the basis of that, we're going to hold  
5 this deposition open. We reserve the right to seek  
6 whatever relief is appropriate.

7 And I truly hope we can work something  
8 out offline with each other because I don't think this  
9 should be that difficult. I'm truthfully not trying to  
10 get privileged information. I have no interest in  
11 attorney-client privileged information. And to the full  
12 extent that you have a privilege, an associational  
13 privilege, you know, you have a privilege; but you're  
14 not even giving me the basic information to begin to  
15 evaluate it. And so I just -- I think this entire  
16 deposition could have been a lot smoother.

17 And I'm sorry, Ms. Newman, that it was so  
18 difficult in spots.

19 But there's a lot of information here  
20 that I believe I'm entitled to that you're not allowing  
21 the witness to testify to. So on that basis --

22 MS. BRANCH: I did want --

23 (Simultaneous speakers.)

24 MR. HILTON: You can respond; but I'd  
25 like to finish, please.

1                   On that basis, we're going to hold the  
2 deposition open.

3                   Ms. Newman, I don't have anything else  
4 for you.

5                   And I pass the witness.

6                   MS. BRANCH: I do want to just respond on  
7 the record to counsel's objections. We have covered  
8 each of the 30(b)(6) deposition topics that were Noticed  
9 here; and Ms. Newman, I believe, has testified to each  
10 one of them. She was prepared for the deposition.

11                  In response to the document request, the  
12 subpoena specifically states that it seeks only the  
13 documents necessary to substantiate the allegations or  
14 to provide the minimum number of documents sufficient to  
15 show information responsive to each of the requests; and  
16 the DCCC's production has satisfied that.

17                  We've also tried to point you to public  
18 information related to each of these topics. Because  
19 the DCCC is a national party committee, for instance,  
20 they are required to publicly report all of their  
21 funding sources, which is -- that was requested in Topic  
22 Number 3; and there's a request related to that. If the  
23 DCCC were to produce every single document related to  
24 all its funding sources, we would have given you, like,  
25 mountains and mountains of paper.

1           So I think that our document production  
2 responded to the topics in accordance with the subpoena  
3 instructions which asked for the minimum number of  
4 documents. I am happy to discuss whether there are more  
5 documents that, you know, we could try to negotiate  
6 over; but I'm not going to -- I do not agree with the  
7 objection that the witness was inadequately prepared or  
8 that the subpoena -- the production in response to the  
9 subpoena was inadequate. I'm happy to meet and confer  
10 about that.

11           I've tried to be as open as possible  
12 about it; but, you know, you're recognizing the  
13 associational privilege that the DCCC has; and we have  
14 asserted that. We've also produced the minimum number  
15 of documents on each of the topics that are not  
16 privileged.

17           And the witness doesn't know which  
18 documents are privileged and which are not. So I don't  
19 think that's an appropriate line of questioning. My  
20 objections were not to block the witness -- or block you  
21 from getting information from the witness, but rather,  
22 to protect the privilege.

23           MR. HILTON: I disagree with all your  
24 characterizations. I think we understand each other's  
25 positions. Hopefully, we can work it out; and if not,

1 we'll see what the Court has to say about it. But my  
2 objection stands.

3 And, again, Ms. Newman, this is not a  
4 reflection on you. And I appreciate your time today  
5 answering my questions.

6 THE REPORTER: Ms. Branch, do you have  
7 any questions of the witness?

8 MS. BRANCH: I do not.

9 THE REPORTER: Are you ordering a copy of  
10 the transcript?

11 MS. BRANCH: Yes.

12 THE REPORTER: All right. Thank you.  
13 We're going off the record at --

14 MS. BRANCH: And we'd --

15 THE REPORTER: -- 2:05 p.m.

16 MS. BRANCH: -- like to read and sign as  
17 well.

18 (Deposition recessed at 2:05 p.m.)

19 --ooOoo--

20

21

22

23

24

25

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 JACQUELINE NEWMAN April 28, 2020

4 PAGE/LINE CHANGE REASON

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1 I, JACQUELINE NEWMAN, have read the  
2 foregoing deposition and hereby affix my signature that  
3 same is true and correct, except as noted herein.

4  
5 \_\_\_\_\_  
6 JACQUELINE NEWMAN  
7

8 THE STATE OF \_\_\_\_\_ )

9 Before me, \_\_\_\_\_, on  
10 this day personally appeared JACQUELINE NEWMAN, known to  
11 me (or proved to me under oath or through  
12 \_\_\_\_\_) (description of identity card or other  
13 document) to be the person whose name is subscribed to  
14 the foregoing instrument and acknowledged to me that  
15 they executed same for the purposes and consideration  
16 therein expressed.

17 Given under my hand and seal of office on  
18 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

19  
20  
21 \_\_\_\_\_  
22 NOTARY PUBLIC IN AND FOR

23 THE STATE OF \_\_\_\_\_

24 My Commission Expires: \_\_\_\_\_  
25



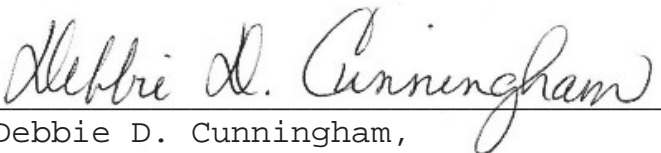
1 STATE OF TEXAS )

2 REPORTER'S CERTIFICATION

3 I, DEBBIE D. CUNNINGHAM, CSR, hereby  
4 certify that the witness was duly sworn and that this  
5 transcript is a true record of the testimony given by  
6 the witness.

7 I further certify that I am neither  
8 counsel for, related to, nor employed by any of the  
9 parties or attorneys in the action in which this  
10 proceeding was taken. Further, I am not a relative or  
11 employee of any attorney of record in this cause, nor am  
12 I financially or otherwise interested in the outcome of  
13 the action.

14 Subscribed and sworn to by me this day,  
15 May 11, 2020.

16  
17  
18 

19  
20 Debbie D. Cunningham,  
Texas CSR 2065

Expiration: 6/30/2021

21 INTEGRITY LEGAL SUPPORT SOLUTIONS

P.O. Box 245

22 Manchaca, Texas 78652

www.integrity-texas.com

23 512-320-8690; FIRM # 528

# Exhibit L

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.,	*	
Plaintiffs,	*	
	*	
v.	*	No. SA-20-CV-46-OG
	*	
RUTH HUGHS, et al.,	*	
Defendant.	*	

VIDEOTAPED VIDEOCONFERENCED  
ORAL DEPOSITION  
OF  
THE DEMOCRATIC SENATORIAL  
CAMPAIGN COMMITTEE REPRESENTATIVE,  
SARA SCHAUMBURG

Thursday, April 30, 2020

VIDEOTAPED VIDEOCONFERENCED DEPOSITION OF SARA SCHAUMBURG, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on Thursday, April 30, 2020, from 10:15 a.m. to 12:04 p.m. Central Time, before Debbie D. Cunningham, CSR, in and for the State of Texas, remotely reported via Machine Shorthand, pursuant to the Federal Rules of Civil Procedure.

--ooOoo--

APPEARANCES

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VIDEOGRAPHER:

Brian Christopher

--ooOoo--

INDEX

APPEARANCES	2
EXAMINATION OF SARA SCHAUMBURG:	
BY MS. MACKIN	6
BY MS. BRAILEY	57
CHANGES AND SIGNATURE	60
REPORTER'S CERTIFICATION	62

--ooOoo--

## EXHIBIT INDEX

Exhibit Number	Description	Page
Exhibit 1	Intervenor-Plaintiffs Texas Democratic Party, DSCC, and DCCC's Complaint for Declaratory and Injunctive Relief	9
Exhibit 2	Defendants' Notice of Oral Deposition Pursuant to Federal Rule of Civil Procedure 30	10
Exhibit 3	2/3/2020 DSCC press release	15
Exhibit 4	DSCC FEC Form 1 Statement of Organization	46
Exhibit 5	DSCC Disbursements to TDP printout, dated January through March 2020	49

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(Thursday, April 30, 2020, 10:15 a.m.)

P R O C E E D I N G S

THE REPORTER: Today is Thursday,  
April 30, 2020. This is the videoconferenced deposition  
of the DSCC's Corporate Representative, Sarah  
Schaumburg, in the matter of Jarrod Stringer, et al.  
versus Ruth Hughs, et al. Due to the COVID-19 pandemic,  
we are remotely situated, and we are on the record at  
10:15 a.m., Central Standard Time.

My name is Debbie Cunningham, and my  
business address is P.O. Box, Manchaca, Texas 78652.

Would all persons present please  
introduce themselves for the record?

MS. MACKIN: This is Anna Mackin with the  
Texas Attorney General's office on behalf of the  
Defendants.

MS. BRAILEY: This is Emily Brailey with  
Perkins Coie on behalf of the Plaintiff Intervenors.

MS. BRANCH: Aria Branch with Perkins  
Coie on behalf of the Plaintiff Intervenors.

THE REPORTER: Is anyone else making  
announcements?

(No audible response.)

(Witness sworn by the reporter.)

MS. SCHAUMBURG: I apologize.



1 (Brief interruption.)

2 SARA SCHAUMBURG,  
3 having taken an oath to tell the truth, the whole truth,  
4 and nothing but the truth, was examined and testified as  
5 follows:

6 EXAMINATION

7 BY MS. MACKIN:

8 Q. Good morning, Ms. Schaumburg. If you wouldn't  
9 mind, just please speak and spell your name one more  
10 time for the record.

11 A. Sure. It's Sara Schaumburg, S-A-R-A  
12 S-C-H-A-U-M-B-U-R-G.

13 Q. Thank you.

14 My name is Anna Mackin. I'm an attorney  
15 with the Texas AG's Office, and I represent the  
16 Defendants in the case. I'm going to be taking your  
17 deposition today. Have you been deposed before?

18 A. Yes.

19 Q. Okay. So you're probably familiar with the  
20 basic ground rules, but I want to touch on a couple of  
21 high points before we get into the meat of the  
22 questions. Since we are using this remote means, please  
23 try to give a verbal answer to my questions, a "yes" or  
24 a "no," as opposed to "uh-huh" or "huh-uh." That's  
25 because Debbie is writing down everything we say, and so

1 that way we can get a clear and accurate record. Okay?

2 A. Yes.

3 Q. Okay. And please let me finish my question  
4 before you answer. I will also endeavor to let you  
5 finish your answer before I ask my next question.  
6 Again, this is especially important that we avoid  
7 speaking over today to give the court reporter time to  
8 get everything down.

9 If you don't understand one of my  
10 questions, will you agree to tell me so that I can  
11 rephrase it?

12 A. Yes.

13 Q. Thank you.

14 And this is not an endurance contest.  
15 You are the talent. If you need a break to use the  
16 restroom, stretch your legs at any time, just let me  
17 know. I'll have you answer any question that is pending  
18 at the time; but then you can go ahead and take that  
19 break. Okay?

20 Any reason that you might not be able to  
21 answer my questions honestly, completely, and accurately  
22 today?

23 A. No.

24 Q. And now that the deposition is underway,  
25 please tell me if you communicate via text, e-mail, or

1 any other means about [sic] your counsel about the  
2 substance of your testimony between now and when I  
3 conclude the deposition. Okay?

4 A. Yes.

5 Q. Do you have any documents in front of you?

6 A. No.

7 Q. Okay. I'm going to be showing you some  
8 documents today; but since we're situated remotely, if  
9 you refer to any document or any website to aid you in  
10 answering my questions, please let me know that. Okay?

11 A. And just to -- sorry. I do have a hard copy  
12 of the Complaint.

13 Q. Okay.

14 A. And the -- and my declaration.

15 Q. Okay. Thank you for that.

16 Also during our conversation today, when  
17 I say DSCC, I will be referring to the Democratic  
18 Senatorial Campaign Committee; and when you say DSCC, I  
19 will also understand you to be referring to the  
20 Democratic Senatorial Campaign Committee. Is that fair?

21 A. Yes.

22 Q. Okay. So during today's deposition, I'm going  
23 to be showing you some documents. We can do this one of  
24 two ways. I can share documents on my screen, or I can  
25 send a link in the chat box to allow you to click and

1 download the document. Do you have a preference? Would  
2 one of those be easier for you?

3 A. Probably the link.

4 Q. Okay. Let's go ahead, then, and practice with  
5 what's going to be Exhibit 1.

6 (Exhibit 1 marked.)

7 Q (BY MS. MACKIN) So I'm placing a document in  
8 the chat box. Did that go through okay?

9 A. It did.

10 Q. Okay. And if you wouldn't mind opening that  
11 up, take a look at it and let me know when you are ready  
12 to discuss it.

13 A. Okay.

14 Q. Have you seen this document before,  
15 Ms. Schaumburg?

16 A. Yes. My only hesitation is just the date is  
17 different than the one that I was familiar with. I  
18 thought one -- I'm looking at one, so I'm just -- or the  
19 one that I have is from December. This one is from  
20 January, but I think I am generally familiar with this  
21 document.

22 Q. Okay. And what is it?

23 A. This is our Complaint in this case.

24 Q. Okay. And did you review the document before  
25 it was filed?

1 A. Yes.

2 Q. Okay. How much time would you say that DSCC  
3 staff spent reviewing this document before it was filed?

4 A. Personally, I probably spent about an hour or  
5 two looking over it before it was filed. I can't speak  
6 to others.

7 Q. Do you know if anyone else with DSCC reviewed  
8 it before it was filed?

9 A. I believe so, but I don't know for sure.

10 Q. Okay. That's all that I have on that  
11 document.

12 MS. MACKIN: I'm going to share another  
13 document in the chat box.

14 (Exhibit 2 marked.)

15 Q. (BY MS. MACKIN) Please let me know if that's  
16 come through okay, and let me know when you're ready to  
17 discuss it. And, obviously, take all the time you need  
18 to look it over.

19 A. Okay.

20 Q. All right. Have you seen this document  
21 before?

22 A. Yes.

23 Q. And what is it?

24 A. This is the Notice of my deposition and the  
25 deposition topics.

1 Q. Okay. And so you understand that you are here  
2 today pursuant to this Deposition Notice?

3 A. Yes.

4 Q. And you understand that this document says  
5 that DSCC is directed to designate one or more persons  
6 to testify on its behalf on the topics of this Notice?

7 A. Yes.

8 Q. And so do you understand that your testimony  
9 today is on behalf of DSCC, and your answers will bind  
10 DSCC?

11 A. Yes.

12 Q. Okay. And, again, taking all the time you  
13 need to review the topics listed in the Notice, have you  
14 been designated as DSCC's representative on each topic  
15 in Exhibit 2?

16 A. That's my understanding, yes.

17 Q. Okay. How did you prepare for today's  
18 deposition?

19 MS. BRAILEY: I'm going to object on the  
20 attorney-client privilege.

21 Sara, you can answer as long as you don't  
22 reveal any conversation with me on that.

23 A. I've had two sessions with counsel. I spoke  
24 with some other employees at the DSCC about our  
25 involvement in Texas, and I reviewed some of the filings

1 in the case and the documents that the DSCC has produced  
2 in the case.

3 **Q. Who did you meet with at DSCC to prepare for**  
4 **today's deposition?**

5 A. I spoke briefly with Allison Wright and Ben  
6 Walden.

7 **Q. And what is Ms. Wright's position with DSCC?**

8 MS. BRAILEY: I'm going to object on the  
9 First Amendment to the extent that any of your answers  
10 would include strategic information.

11 But you can answer at a high level.

12 A. She handles our compliance.

13 **Q. (BY MS. MACKIN) So, like, one of her job**  
14 **duties is filing your filings with the FEC, for example?**

15 A. That, I don't know.

16 **Q. Oh, okay. No problem.**

17 **And then what is Mr. Walden's role with**  
18 **DSCC?**

19 MS. BRAILEY: The same objection. I'm  
20 going to just object on the First Amendment.

21 You can answer at a high level as long as  
22 you don't reveal strategic information.

23 A. He's the director of Candidate Services.

24 **Q. (BY MS. MACKIN) So did you meet with anyone**  
25 **else at DSCC to prepare for today's deposition besides**

1 Ms. Wright and Mr. Walden?

2 A. No.

3 Q. Okay. And why did you meet with Ms. Wright to  
4 prepare for today's deposition?

5 A. To make sure I had a complete understanding of  
6 our investments and involvement in Texas in the Texas  
7 Senate race.

8 Q. And how about Mr. Walden, why did you meet  
9 with him?

10 A. I'm sorry. I said for the same reason as  
11 Ms. Wright.

12 Q. Okay. Thank you for that.

13 And you mentioned that you met with your  
14 counsel twice?

15 A. Correct.

16 Q. Okay. And, again, I'm not asking for the  
17 substance of those communications or what you discussed,  
18 nothing privileged, just kind of the nuts and bolts of  
19 how long were each of those meetings?

20 A. A couple of hours.

21 Q. All right. And so are you adequately  
22 familiarized with the facts to testify as DSCC's  
23 representative on the topics in the Notice?

24 A. Yes.

25 Q. Okay. Did you review -- well, let's see. You



1 mentioned that you reviewed the filings in this lawsuit,  
2 not all of them, some of them, and the documents that  
3 DSCC has produced to us. Did you review any other  
4 documents to prepare for today's deposition?

5 MS. BRAILEY: I'm just going to object to  
6 preserve the attorney-client privilege.

7 You can answer as long as none of this  
8 involves our conversations.

9 A. No.

10 Q (BY MS. MACKIN) So your counsel has provided  
11 some documents to us that are Bates numbered DSCC 1  
12 through DSCC 906. Are you aware of that?

13 MS. BRAILEY: Objection.

14 Anna, just so you know, it goes to 911 is  
15 the final Bates number.

16 MS. MACKIN: I apologize. 911. I guess  
17 the last document is titled 906, but it's several pages.

18 MS. BRAILEY: Right.

19 MS. MACKIN: I appreciate that. Thank  
20 you, Emily.

21 Q (BY MS. MACKIN) And so are you familiar with  
22 the fact that those documents have been provided to us,  
23 Ms. Schaumburg?

24 A. I understand that counsel produced this set of  
25 documents in advance of this.

1           **Q.    And is it your understanding that the**  
2 **documents were provided as DSCC's response to the**  
3 **subpoena on page 6 of Exhibit 2?**

4           **A.    Yes.**

5           **Q.    Okay.**

6                   MS. MACKIN:   And I'm going to attach a  
7 copy of that production to this deposition as Exhibit 3.

8                   (Exhibit 3 marked.)

9                   MS. MACKIN:   I can try to share it in the  
10 chat box.   Let me see if it will go through.   No, it's  
11 not letting me do that; but I'll provide them to all  
12 parties after the deposition.   Plaintiffs are welcome --  
13 sorry.   Intervenors are welcome to verify that it is, in  
14 fact, the production.

15                   MS. BRAILEY:   And, Anna, if you're going  
16 to use specific ones, will you puts those specific pages  
17 in the chat.

18                   MS. MACKIN:   Yes, yes.

19                   MS. BRAILEY:   Okay.

20           **Q       (BY MS. MACKIN)   And, Ms. Schaumburg, did you**  
21 **review the documents that were produced to us before**  
22 **they were produced?**

23           **A.    I believe so.**

24           **Q.    Okay.   And do you know the names of the DSCC**  
25 **staff members who searched for documents to respond to**

1 **the subpoena?**

2 MS. BRAILEY: I'm going to object on both  
3 attorney-client privilege because of our conversations  
4 and also on the First Amendment to the strategic  
5 information.

6 You can answer to the extent that you  
7 know and don't reveal strategic or privileged  
8 communications.

9 A. No, I don't know.

10 **Q (BY MS. MACKIN) Okay. All right. So I'd**  
11 **just like to briefly go through the list on page 6 of**  
12 **Exhibit 2. The first category of documents, did DSCC**  
13 **provide documents in response to this request?**

14 A. So I was not involved in putting together the  
15 production, but it's -- just looking at it, it's my  
16 understanding that the DSCC searched for and produced  
17 documents in consultation with counsel and that those  
18 documents satisfied the request.

19 **Q. Okay. And would that be your answer with**  
20 **respect to all five categories of documents listed on**  
21 **page 6 of Exhibit 2?**

22 A. Yes.

23 **Q. Okay. In preparation for today's deposition,**  
24 **did you review any documents that have not been produced**  
25 **to us?**

1 MS. BRAILEY: I'm going to object on  
2 attorney-client privilege.

3 You can answer to the extent that you  
4 don't reveal privileged conversations.

5 A. Did I review any -- other than the filings  
6 that I mentioned, no.

7 Q (BY MS. MACKIN) Okay. And so you are  
8 currently employed by DSCC; is that right?

9 A. Yes.

10 Q. And that is a national party committee of the  
11 Democratic Party?

12 A. That's correct.

13 Q. Okay. What is your job title?

14 A. I'm the Director of Voter Protection and the  
15 Deputy Policy Director.

16 Q. And how long have you held that position?

17 A. Since early November of 2019.

18 Q. And before that, what was your job?

19 A. I was a litigation associate at WilmerHale.

20 Q. I cannot believe you got out of the game.

21 So what are your job duties in your  
22 current role at DSCC?

23 A. So on the voter protection side, I work to  
24 manage and oversee the DSCC's voter protection efforts.  
25 A lot of that entails working with the state voter

1 protection directors in the Senate battleground states  
2 to advise and provide guidance on their voter protection  
3 programs and helping them identify issues as they come  
4 up, identify opportunities to expand voting access, and  
5 eliminate barriers and obstacles to voting.

6 And on the policy side, a lot of it  
7 involves tracking federal legislation, what's going on  
8 on the Senate floor, and helping our campaigns and  
9 candidates understand and follow that process and  
10 develop their policy platforms.

11 **Q. You mentioned sort of liaising with state**  
12 **voter protection directors. Is there a voter protection**  
13 **director for the state of Texas?**

14 A. Yes.

15 **Q. And what is that person's name?**

16 A. Rose Clouson.

17 (Reporter requests spelling.)

18 THE WITNESS: C-L-O-U-S-O-N.

19 **Q (BY MS. MACKIN) And who do you report to**  
20 **within the DSCC organizational structure?**

21 A. In the voter protection role, I would report  
22 to our executive director.

23 **Q. What is the executive director's name?**

24 A. Scott Fairchild.

25 **Q. Okay. And then in the policy role?**

1 A. I would report to the policy director.

2 Q. And what is that person's name?

3 A. Hazeen Ashby. I spell that. H-A-Z-E-E-N.

4 The last name is Ashby, A-S-H-B-Y.

5 Q. Does anyone report to you?

6 A. No.

7 Q. Okay. Do you enjoy your job?

8 A. Yes, I do.

9 Q. Good.

10 And I just briefly want to cover your  
11 educational background, starting with the most advanced  
12 degree obtained. I assume you went to law school?

13 A. I did.

14 Q. And where did you go to law school?

15 A. I graduated from Harvard Law School.

16 Q. In what year?

17 A. 2016.

18 Q. And then how about undergraduate? Where did  
19 you go to undergraduate?

20 A. University of Pennsylvania.

21 Q. And what did you study?

22 A. Political science.

23 Q. And what year did you graduate?

24 A. 2007.

25 Q. Okay. What did you do in between college and

1 **law school?**

2 A. So in 2006 I took time off of college and  
3 worked on a House race in Pennsylvania. I continued to  
4 work on that after graduation in the '08 and 2010  
5 cycles. Although in 2009, in January 2009, I went to  
6 the official side for a while; and I was a Congressional  
7 staffer, a legislative aide, focused primarily on  
8 healthcare policy. And then towards the end of the  
9 campaign cycle, I went back to the campaign side as the  
10 communications director.

11 After 2010 -- we lost that race -- I went  
12 to work for another congressman, then Congressman Ed  
13 Markey, from Massachusetts. I was with him through June  
14 2013. And then went to law school in that fall.

15 **Q. And so you mentioned working for Congressman**  
16 **Markey; and then, before that, you talked about a couple**  
17 **of roles with campaigns and then on the official side.**  
18 **Was that all for the same person?**

19 A. Yes.

20 **Q. And who was that?**

21 A. Patrick Murphy.

22 **Q. All right.**

23 A. I should say on the campaign side, I served as  
24 a field organizer and also was the deputy finance  
25 director for a cycle; and then my final role was as the

1 comms director.

2 Q. I worked on a couple of campaigns. I know  
3 that sometimes you can wear many hats.

4 All right. So jumping over to the topics  
5 in the Notice, I'm just going to start with Topic 1.  
6 What is DSCC's mission?

7 A. So the DSCC is the National Senatorial  
8 Committee of the Democratic Party's organization that's  
9 responsible for the day-to-day operations of the Party  
10 at a national level, and its mission is just to elect  
11 Democrats, Democratic candidates to the United States  
12 Senate, including candidates from Texas.

13 Q. And has that mission changed over time?

14 A. Not that I know of.

15 Q. Okay. When was DSCC first established? And  
16 I'll say I understand that from the FEC filings, some of  
17 them say Democratic Senatorial Campaign Committee; and  
18 some of them just say DSCC. I'm referring to the same  
19 organization.

20 A. I would have to check.

21 Q. Okay. What percentage of DSCC's activities,  
22 just approximately, would you say are focused on voter  
23 registration?

24 MS. BRAILEY: I'm going to object on the  
25 First Amendment.



1           You can answer at a high level.

2           A.     So I don't think I could give that a  
3 percentage. It doesn't exactly -- that's not how we  
4 would break down our operations. I mean, the core of  
5 what the DSCC does is working with campaigns and state  
6 parties to support a range of different activities,  
7 including field; and that would, you know, be voter  
8 registration, voter turnout, GOTV. So it's definitely a  
9 core part of the GOTV's mission and activities, but  
10 it's -- I cannot put a percentage on it.

11           I can't -- I don't know if something  
12 happened with the sound.

13           **Q.     Can you hear me?**

14           A.     I can now.

15           **Q.     Okay. I didn't really say anything. I said,**  
16 **"Fair enough" but kind of to myself.**

17           A.     I saw the mouth moving, but I couldn't hear  
18 you.

19           **Q.     Sorry.**

20                    **Would you say at a high level that DSCC's**  
21 **focus on voter registration activities has been the same**  
22 **over time, or has it changed?**

23           MS. BRAILEY: Again -- I know you said  
24 "high level," but just to preserve it, object on the  
25 First Amendment.

1           You can answer to the extent you don't  
2 reveal internal strategic decisions.

3           A.    I think it's definitely been a focus of the  
4 DSCC's mission. I think, you know, our focus depends --  
5 like, it will vary. Depending on the cycle, depending  
6 on the state and what race you're talking about, there's  
7 different -- you know, each state is different and  
8 presents different challenges.

9                   You know, in a situation where we're  
10 dealing with a state that has put in place a lot of  
11 obstacles to voter registration, like in Texas, then it  
12 will be an even greater focus for the DSCC if there's --  
13 you know, if you have a situation like we have here,  
14 where the State's not allowing simultaneous online  
15 registration, then we know that voter registration's  
16 going to have to be a higher priority than it might be  
17 in another state where it's easier to register folks.

18           Q.    And would you say that -- well, strike that.

19                   Okay. Moving on to Topic 2, DSCC's  
20 organizational structure, how many employees does DSCC  
21 have?

22           A.    (Inaudible.)

23           Q.    Okay.

24                   (Reporter requests repeat.)

25                   THE WITNESS: Roughly, a rough

1 approximation, 50; but I don't have an exact number.

2 Q. (BY MS. MACKIN) Does DSCC have any parent or  
3 sibling entities?

4 MS. BRAILEY: I'm just going to object on  
5 First Amendment.

6 But, obviously, you know, answer to the  
7 extent that you know it at a high level.

8 A. I'm not sure what you mean by -- what did you  
9 say, sister?

10 Q. (BY MS. MACKIN) Sibling.

11 A. What do you mean by that?

12 Q. Well, I think we can actually explore that  
13 with an exhibit later on. So we can move along from  
14 that.

15 DSCC is a 501(c)(4), though, correct?

16 MS. BRAILEY: I'm going to object on a  
17 legal conclusion.

18 You can answer to the extent that you  
19 know.

20 A. I believe that's correct.

21 Q (BY MS. MACKIN) Okay. All right. I want to  
22 jump down to Topic 4 and talk about DSCC's activities in  
23 Texas. I'd like to get a sense of the general  
24 categories, types of activities that DSCC is engaged in.  
25 So I know that it can change from cycle to cycle; and

1 I'm not trying to get overly granular, just kind of --  
2 one of the things you mentioned earlier was candidate  
3 services might be, like, one bucket of activity. How  
4 would you kind of describe the main categories of  
5 activities that DSCC conducts in Texas?

6 A. So the DSCC engages in a range of activities;  
7 and, again, it will depend on the particular state and  
8 particular race. But we advise candidates and state  
9 parties to support their programs and operations.

10 We raise and spend tens of millions of  
11 dollars that we use to support individual Senate  
12 campaigns, either via direct contributions or by making  
13 investments on behalf of the campaigns, a lot to the  
14 limit.

15 We transfer down funding to state parties  
16 that's used part of the coordinated campaign to hire key  
17 staffers, invest in field and turnout operations. So  
18 that would include voter registration, persuasion, GOTV.

19 And we invest in communications tools  
20 that would make it easier for campaigns and -- for  
21 campaigns to contact voters, like texting, dialing, that  
22 would help our candidates expand their voter  
23 registration and turnout efforts.

24 Q. Okay. So, again, with the understanding that,  
25 you know, I'm not expecting you to list every discreet

1 activity but just to get a sense of, like, the broad  
2 categories, what I have, based on your answer, seems to  
3 fall into -- and correct me if I'm wrong; I'm just  
4 trying to make a list -- state party support, candidate  
5 support, the coordinated campaign, and investments in  
6 communication tools. Did I miss something,  
7 mischaracterize it?

8 A. When you say the state party -- I mean, the  
9 transfers down are used to support the coordinated, so.

10 Q. Okay. So that's kind of like one bucket,  
11 like, state party support, the coordinated campaign  
12 would fall within that?

13 A. Sure.

14 Q. Okay. And so what types of -- and I know you  
15 gave some examples; but now I do want to dive a little  
16 deeper, again, with the understanding that I'm not  
17 expecting, you know, like, "We ran this ad on March 1st"  
18 or whatever. But what types of activities does the DSCC  
19 engage in that you would characterize as state party  
20 support?

21 MS. BRAILEY: And I'll object on the  
22 First Amendment.

23 You can answer at a high level.

24 A. So we transferred down funding to the state  
25 parties; and, again, that's used to support and finance

1 activities that are part of a coordinated campaign which  
2 supports Democratic candidates up and down the ballot.  
3 And so that's the things I've listed before. It would  
4 include hiring staff, supporting field and turnout,  
5 things like that.

6 **Q. And would you categorize voter-registration**  
7 **efforts as falling under that state party support**  
8 **umbrella?**

9 A. In part at least.

10 **Q. And what else might voter-registration**  
11 **efforts -- well, you said voter-registration efforts**  
12 **could, in part, be characterized as state party support.**  
13 **How else could they be characterized?**

14 A. I mean, again, the communication tools that we  
15 invest in help candidates expand their voter-contact  
16 efforts, to include voter registration.

17 **Q. And so what types of voter-registration**  
18 **efforts does the DSCC engage in?**

19 MS. BRAILEY: I'll object on the First  
20 Amendment.

21 You can answer at a high level.

22 A. Sorry. I'm just trying to distinguish from  
23 what I've -- what you've already asked. I mean, we  
24 provide support for state parties, which is the  
25 coordinated, and comms tools. I think that is primarily

1 how we would support voter registration.

2 Q (BY MS. MACKIN) So it would be like -- oh, I  
3 see. So, like, the support that you provide to the  
4 state party, some of that is used by the state party for  
5 voter-registration efforts? Is that what you're saying?

6 A. As part of a coordinated campaign.

7 Q. Okay. And then you also make investments in  
8 these tools that you make available to state parties and  
9 the tools can assist the state parties with voter  
10 registration; is that right?

11 A. My understanding is that the communications  
12 tools are something we provide to individual campaigns.  
13 I'm not sure if we provide that to the state party.

14 Q. So I'm getting a sense that the ways that DSCC  
15 support voter-registration efforts are, Number 1, by  
16 providing funds to state parties, which then use those  
17 funds for voter-registration efforts. And, Number 2, by  
18 providing communications tools to campaigns, which the  
19 campaigns can then use for voter-registration efforts;  
20 is that right?

21 A. It also provides funding to individual  
22 campaigns that might use that for voter registration.

23 Q. Okay. And when you provide funds to a state  
24 party, do you -- I want to say earmark; but I know that  
25 has, like, a legal connotation in a campaign finance

1 context. So that's not really what I mean. Like, when  
2 you provide funds to state parties, do you specify, "Use  
3 these funds for voter registration"; or is up to the  
4 party to take the funds that it receives from DSCC and  
5 then decide to use them for voter registration?

6 MS. BRAILEY: I'm going to object on the  
7 First Amendment.

8 You can answer at high level.

9 But I'm also going to object on form that  
10 it's vague and compound.

11 A. Yeah. Can I -- sorry. Can I ask you to  
12 rephrase?

13 Q (BY MS. MACKIN) Sure. So -- actually, I kind  
14 of forgot my question.

15 MS. MACKIN: Debbie, would you mind  
16 reading it back, just to remind me; and then I will  
17 rephrase it.

18 THE REPORTER: Okay.

19 MS. MACKIN: Thank you.

20 (The requested material was read as  
21 follows:

22 "QUESTION: And when you provide funds to  
23 a state party...")

24 THE REPORTER: Oh, do you want me to  
25 continue?



1 MS. MACKIN: Now I remember.

2 Q (BY MS. MACKIN) So when the DSCC provides  
3 funds to a state party, will it ever specify that those  
4 funds are to be used for voter registration?

5 MS. BRAILEY: Objection on the First  
6 Amendment.

7 You can answer at a high level.

8 A. Specify in what way?

9 Q (BY MS. MACKIN) In any way.

10 A. My understanding is that we would not. And I  
11 don't -- you know, that we provide funding to the state  
12 party; but it's not designated for particular specific  
13 purposes.

14 Q. Okay.

15 A. I think the -- you know, in deciding -- well,  
16 I'll leave it at that.

17 Q. Okay. Thank you.

18 And then when DSCC provides support to  
19 campaigns, will it ever designate the funds it provides  
20 for voter registration activities?

21 MS. BRAILEY: Objection on the First  
22 Amendment.

23 You can answer at a high level.

24 And, also, an objection to a legal  
25 conclusion.

1                   So just answer to the extent that you  
2 know in your experience.

3           A.     Not to my knowledge.

4           **Q     (BY MS. MACKIN)   Okay.   And when the DSCC**  
5 **makes communication tools available to campaigns, will**  
6 **it ever designate those tools to be used specifically**  
7 **for voter registration purposes?**

8                   MS. BRAILEY:   Same objection, First  
9 Amendment.

10                   You can answer at a high level.

11                   And legal conclusion.

12                   If you know what it means in your  
13 experience.

14           A.     I'm not really sure -- I'm not sure I totally  
15 understand the question.   I mean, there are  
16 communication tools which are, by definition, meant to  
17 communicate with voters for doing -- for voter-contact  
18 activities which would include voter registration.   So I  
19 think it's sort of inherent to the nature of the tool.

20           **Q.     (BY MS. MACKIN)   But the tool can be used for**  
21 **multiple purposes, right?**

22           A.     It's for voter contact.

23           **Q.     Okay.   And just to make sure I'm clear, does**  
24 **DSCC itself conduct voter registration activities in**  
25 **Texas?**

1 MS. BRAILEY: Objection on the First  
2 Amendment.

3 Answer at a high level.

4 A. Other than what I've described?

5 Q (BY MS. MACKIN) Other than by providing  
6 support to candidates and campaigns who can then conduct  
7 voter-registration activities.

8 A. I mean, I think that there could be instances  
9 where DSCC staff advise, whether by training or other  
10 guidance, on voter-registration activities, in addition  
11 to everything that we've already talked about.

12 Q. Okay. Anything else?

13 A. On? I'm sorry. Anything else...

14 Q. Does DSCC conduct any other voter-registration  
15 activities in Texas besides the support it provides to  
16 state parties, the support it provides to campaigns; and  
17 then you mentioned the possibility of DSCC staff  
18 providing guidance or training on voter registration?

19 A. That's all I can think of.

20 Q. Okay. How often would you say DSCC's staff  
21 has provided guidance on voter registration in Texas?

22 A. How often?

23 Q. Uh-huh.

24 A. What do you mean by, like --

25 Q. Well, you mentioned that it might happen. And

1 so I'm just trying to get a sense of whether that has,  
2 in fact, happened or it's more of a hypothetical  
3 possibility.

4 A. I mean, it has certainly happened. It's  
5 hard -- I'm not sure how -- how often. You know, like I  
6 said, they would advise as needed. It depends, again,  
7 on the other needs of the campaign and what's going on  
8 in a particular state.

9 Q. Okay.

10 A. But we certainly do provide guidance and  
11 training and, you know, expertise on all things field  
12 and voter contact; and voter registration is a big part  
13 of that.

14 Q. Any other voter-registration activities that  
15 DSCC has engaged in in Texas?

16 A. Again, that's all I can think of.

17 Q. Okay. How much did DSCC spend on voter  
18 registration in Texas in 2014?

19 MS. BRAILEY: Objection on the First  
20 Amendment.

21 Just answer at a high level.

22 A. It's not like there's a line item for  
23 voter-registration efforts, so it's hard for me to  
24 answer that.

25 Q (BY MS. MACKIN) And would your answer be the

1 same for the years 2015, 2016, 2017, 2018, and 2019?

2 A. My answer to the question of how much did the  
3 DSCC spend on voter registration? Yes.

4 Q. And would that also be your answer for how  
5 much the DSCC spent on voter registration in 2020?

6 A. I mean, again, there's no line item for voter  
7 registration. So in 2020 we've made investments in  
8 Texas and we expect to make significantly more, given  
9 the state of that race; but there's not a particular --  
10 there's not a specific, like, line item for voter  
11 registration in the budget or something like that.

12 Q. Okay. What investments have you made in  
13 Texas?

14 MS. BRAILEY: Again, I'll object to the  
15 First Amendment.

16 But you can answer at a high level.

17 A. What time period are you talking about?

18 Q (BY MS. MACKIN) In 2020.

19 A. Like, in the 2020 cycle?

20 Q. Well, sure.

21 A. Okay. Because that would be 2019, too.

22 Q. Okay. Fair enough.

23 A. So for this cycle, it's my understanding that  
24 we have invested nearly \$200,000 in Texas in various  
25 ways. I know we've max'ed out to the MJ for Senate

1 Campaign. We've done \$25,000 in transfer downs and  
2 roughly a hundred thousand in polling.

3 **Q. And do you know if any of those investments**  
4 **have been used for voter-registration activities?**

5 A. So I do know that TDP is -- as you might be  
6 aware, is undertaking the biggest voter registration  
7 initiative in the history of the state party. And so  
8 it's my understanding that, again, the funding that we  
9 provide to the state party is used for coordinated  
10 campaign expenses; and so that would all be part of  
11 those efforts.

12 **Q. All right. Other than the funds that DSCC**  
13 **transferred down to TDP, do you know if any of its other**  
14 **investments in the 2019-2020 cycle in Texas have been**  
15 **used for voter registration?**

16 A. So I don't know specifically; but I do want to  
17 make two points, just to make sure this is clear so --  
18 as far as the funding goes, because you're asking about  
19 what we've done so far. As far as transfer down  
20 funding, it's very early in the cycle to be assessing  
21 the level of transfer down funding. You know, a lot of  
22 those investments are things you wouldn't expect to see  
23 until later in the cycle, with early voting not starting  
24 for six months.

25 **So we've done, you know, what we've done**

1 so far; but on a related note, you know, we intend to  
2 spend significantly more in Texas than what we've seen  
3 already, easily into the millions, given the  
4 competitiveness of the race and the fact that the DSCC  
5 is aware of several obstacles that Texas has put in  
6 place to turning out voters, including the failure to  
7 allow for simultaneous online registration. So I just  
8 wanted to make sure that was clear.

9 Q. Okay. Thank you for that.

10 But so far in the 2019-2020 cycle, you  
11 mentioned that the DSCC has transferred money to the TDP  
12 that might be used for voter registration. Other than  
13 that, has the DSCC made any other investments in the  
14 2019-2020 cycle that can be used for voter registration?

15 A. So I listed all of the investments that we've  
16 made in Texas that I'm aware of; and, again, we'll just  
17 stress that the DSCC intends to make significantly more  
18 investments as the cycle progresses.

19 Q. Sure. Fair enough. But to date.

20 MS. BRAILEY: I'm going to object on the  
21 form.

22 You can answer if you understand.

23 A. So I think I've answered it. I've listed the  
24 investments in Texas in this cycle that I'm aware of.

25 Q. (BY MS. MACKIN) Right. And I'm sorry if my

1 question wasn't clear. I was asking which of those  
2 investments have been used for voter registration.

3 MS. BRAILEY: I'm going to object on form  
4 again.

5 A. So we contributed to the MJ for Senate. I'm  
6 not -- I can't -- I don't know what exactly that is  
7 being used for; but we have provided the maximum amount  
8 that we are able to, to her campaign directly, which I  
9 think could be used for voter registration.

10 We've given 25,000 to the coordinated,  
11 which engages in voter-registration efforts and intend  
12 to do more -- anticipate doing more through the  
13 coordinated.

14 Q. (BY MS. MACKIN) Okay. And do you know how  
15 much of that 25,000 to the coordinated has been used for  
16 voter registration?

17 A. Sitting here, I couldn't give you a specific  
18 amount. Again, I don't -- I can't speak to TDP's, you  
19 know, recordkeeping; but, like, the DS, as I said  
20 before, it's not like there's a line item for voter  
21 registration. But I do know that TDP is undertaking a  
22 huge voter-registration effort, in part, to compensate  
23 for some of the unique challenges that it faces in the  
24 state.

25 Q. Okay. So now I'm a little bit confused. In



1 terms of the funds that you've invested in Texas in the  
2 2019-2020 cycle, I have funds to TDP, funds to MJ for  
3 Senate, and then funds to the coordinated campaign?

4 A. No, to the -- sorry.

5 Q. No, please go ahead. I'm trying to  
6 understand, so correct me.

7 A. The funding to the state party is -- when I  
8 say "transfer down," that's funding that we transfer  
9 down from the DSCC to the state party that is used for  
10 the coordinated campaign expenses.

11 Q. Okay. So I've got funds to TDP and funds to  
12 MJ for Senate; is that -- is that right? Sorry. That's  
13 a terrible question.

14 For your investments in Texas in the  
15 2019-2020, I've got funds to TDP and funds to MJ for  
16 Senate. Is there anything else?

17 A. I also mentioned the polling.

18 Q. Polling. Okay. Tell me about that.

19 MS. BRAILEY: Objection, vague.

20 A. Can you clarify?

21 Q (BY MS. MACKIN) What do you mean by  
22 "polling"? I don't --

23 A. Like, what is polling?

24 Q. Like, you say you have invested in polling.  
25 Do you know if any of your investments in -- so if you

1 invested in polling, those funds would not be used for  
2 voter registration, right? They'd be used for polling?

3 A. Yes.

4 Q. Okay. And then, so other than the funds to  
5 TDP, the funds to MJ for Senate, and the investments in  
6 polling, have you made any other investments in Texas in  
7 the 2019 to 2020 cycle so far?

8 MS. BRAILEY: Objection in that it  
9 mischaracterizes the testimony.

10 Q. (BY MS. MACKIN) And if I've got it wrong,  
11 please tell me. I'm just trying to get the list.

12 A. Can you repeat the question?

13 Q. Sure. So in the 2019 to 2020 cycle, DSCC has  
14 invested in Texas in the following ways: Funds to TDP,  
15 fund to MJ for Senate, and investments in polling. Is  
16 there anything else so far?

17 A. It this --

18 THE WITNESS: I'm sorry. Emily, did  
19 you...

20 A. At this stage of the cycle, that's my  
21 understanding of our investments in the state.

22 Q. (BY MS. MACKIN) Thank you for that.

23 All right. And jumping back to the  
24 previous cycle, 2017 to 2018, did DSCC make any  
25 investments in voter registration in Texas in the 2017-

1   **2018 cycle?**

2           A.    So I don't -- I mean, as far as expenditures  
3   that the DSCC made to Texas in the 2018 cycle, I'm aware  
4   that I believe we spent, like, \$35,000 on polling. I'm  
5   not aware of specific, like, itemized expenditures.  
6   That's not to say that -- like, there could have been  
7   staff time spent on supporting voter-registration  
8   efforts, but not that I'm aware of.

9           **Q.    Okay. In the 2015 to 2016 cycle, are you**  
10   **aware of DSCC making any investments in voter**  
11   **registration in Texas?**

12          A.    When you say "investments," can you -- like,  
13   what are you...

14          **Q.    I'm tracking the language in your Complaint.**  
15   **So if there's a better way to describe it, please let me**  
16   **know.**

17          A.    So I'm not aware of expenditures that the DSCC  
18   made to Texas in the 2016 cycle.

19          **Q.    So there weren't any that you're aware of?**

20                   MS. BRAILEY: Objection, mischaracterizes  
21   the testimony.

22          A.    I'm not aware of expenditures that the DSCC  
23   made in Texas in 2016.

24          **Q     (BY MS. MACKIN) And what about 2015?**

25                   MS. BRAILEY: Objection on form.

1           A.     If you're asking -- 2015 would be part of the  
2     2016 cycle, so --

3           **Q.     Okay.**

4           A.     -- my answer was to the 2016 cycle.

5           **Q.     Okay. And so that includes 2015 as well?**

6           A.     Calendar year 2015 would be part of the 2016  
7     election cycle.

8           **Q.     Okay. And then, are you aware of the DSCC**  
9     **making any expenditures for voter registration in Texas**  
10    **in the 2014 cycle?**

11          A.     As with the 2016 cycle, I'm not aware of DSCC  
12    expenditures in Texas in the 2014 cycle.

13          **Q.     Okay.**

14                 MS. BRAILEY: Anna, are we getting to a  
15    point where we might be able to take a break? We're  
16    about at the hour.

17                 MS. MACKIN: Yeah, that's fine. We can  
18    take a quick break now. How long --

19                 Let's go off the record.

20                 THE REPORTER: Going off the record at  
21    11:11 a.m.

22                 (Off the record from 11:11 to 11:26 a.m.)

23                 THE REPORTER: Going back on the record  
24    at 11:26 a.m.

25                 MS. MACKIN: I'm sharing a document in

1 the chat box -- two documents, actually; and they are  
2 Bates numbered -- the first one begins at DSCC 796 and  
3 goes through 797; and the second one begins at DSCC 798  
4 and goes through 799.

5 **Q. (BY MS. MACKIN) Please take a look at those**  
6 **documents and let me know when you're ready to discuss**  
7 **them.**

8 A. Okay.

9 **Q. So the page labeled DSCC 796 through 797, do**  
10 **you recognize this document?**

11 A. I think it was -- I recognize it as -- I  
12 believe as part of the production.

13 **Q. Okay. Have you seen it before?**

14 A. Before right now?

15 **Q. Yes.**

16 A. Again, I reviewed the production before it  
17 went out. So I think -- I believe this is part of  
18 production, so I would have seen it then.

19 **Q. Okay. Do you recall whether you saw it before**  
20 **reviewing the production?**

21 A. I don't.

22 **Q. Okay. Based on your experience with the DSCC,**  
23 **what does this e-mail appear to be?**

24 A. It appears to be an e-mail asking a survey  
25 question.

1           Q.    And do you know whether the document that  
2 begins at 798 reflects a question that was asked on the  
3 survey linked in the e-mail, labeled 796?

4           A.    I wouldn't be able to tell you.

5           Q.    Okay. At a high level, what is the purpose of  
6 sending out a survey to -- here it says, "The audience  
7 of highly reliable Democrats"?

8                   MS. BRAILEY: Objection on the First  
9 Amendment.

10                   You can answer at a high level to the  
11 extent you don't reveal internal strategic decisions.

12           A.    Generally speaking, the DSCC wants to hear  
13 from Democratic voters around the country, understand  
14 what their priorities are, what folks' concerns are, and  
15 just get a sense of that. And so I think that outreach  
16 like this would be an attempt to obtain that insight.

17           Q.    (BY MS. MACKIN) Do you know approximately how  
18 often DSCC conducts surveys like this?

19           A.    I don't. I mean, I would say it's not  
20 infrequently; but it's hard for me to be more specific.

21           Q.    And then, turning to the page -- well,  
22 actually, that's all I have on those.

23                   MS. MACKIN: All right. I am pulling  
24 up -- well, I'm sharing in the chat box an exhibit -- a  
25 document, rather; and it will be a page from Exhibit 3,

1 the document marked DSCC 800.

2 Q. (BY MS. MACKIN) Please take a look at that  
3 document, and let me know when you are ready to discuss  
4 it.

5 A. Okay.

6 Q. This is an e-mail dated April 18th, 2020 that  
7 appears to have been sent from info@DSCC.org, with the  
8 name Chuck Schumer; is that right?

9 A. Yes.

10 Q. Okay. And at a high level, what is the  
11 purpose of an e-mail like this?

12 MS. BRAILEY: Objection on the First  
13 Amendment.

14 You can answer to the extent it doesn't  
15 reveal internal strategic decisions.

16 A. This is a fundraising e-mail.

17 Q. (BY MS. MACKIN) Okay. And about halfway down  
18 the page there's a paragraph that begins, "We're already  
19 putting your funds to work making crucial investments  
20 that will make the difference on Election Day. Your  
21 support is funding things like advertising to boost our  
22 Democratic Senate candidates and registering a record  
23 number of new voters in swing states." Did I read that  
24 correctly?

25 A. Yes.

1 Q. And this mention of registering a record  
2 number of new voters in swing states, does that include  
3 the -- well, is that a reference to any activities in  
4 Texas?

5 A. I'm not sure what the drafter of this e-mail  
6 is specifically referring to, but certainly we have  
7 made investments in Texas that will further voter-  
8 registration efforts. And so -- I'll leave it at that.

9 But I can't -- I don't know what the  
10 person who drafted this was specifically referring to,  
11 if they had Texas in mind.

12 Q. And so it also mentions a record number of new  
13 voters. I guess I'm -- can you help me understand what  
14 is meant by "a record number" in this context?

15 A. So, again, I didn't draft this; and I don't  
16 know exactly what the drafter meant. But, generally, a  
17 record number means more than have been registered  
18 through our efforts before.

19 Q. Okay.

20 A. And as I said earlier, again, TDP is in the  
21 midst of a massive voter registration campaign that  
22 transfer down funding from the DS would help to support,  
23 so.

24 Q. All right. Thank you.

25 All right. That's all I have on that.



1 MS. MACKIN: I'm going to share a  
2 document in the chat box that will be Exhibit 4 to this  
3 deposition.

4 (Exhibit 4 marked.)

5 Q (BY MS. MACKIN) Please take a look at it and  
6 let me know when you're ready to discuss it.

7 A. Okay.

8 Q. All right. Do you recognize this document?

9 A. I don't believe I've seen this document  
10 before.

11 Q. Okay. Based on looking at it, what does it  
12 appear to be?

13 A. The title of the document is Statement of  
14 Organization.

15 Q. And it is a Federal Election Commission form  
16 that appears to have been submitted by the DSCC to the  
17 Federal Election Commission?

18 A. That seems right.

19 Q. Okay. And scrolling down to page 3 of this  
20 document, there is a box for "Name of Any Connected  
21 Organization, Affiliated Committee, Joint Fundraising  
22 Representative or Leadership PAC Sponsor." And beneath  
23 that it says, "Colorado Senate Victory 2016." Are you  
24 familiar with Colorado Senate Victory 2016?

25 A. No.

1           **Q.     Okay. Do you know if it is active in Texas?**

2                   MS. BRAILEY: Objection that this calls  
3 for a legal conclusion and is outside of the scope of  
4 the Deposition Notice.

5                   But you can answer to the extent that you  
6 know.

7                   MS. MACKIN: And I'll just note that the  
8 Notice does include all activities in Texas. And so if  
9 this entity has acted in Texas, I think it would fall  
10 within the scope of the Notice.

11                  MS. BRAILEY: Same objection.

12                  But you can answer.

13           A.     I'm not aware. I'm not familiar with the  
14 entity.

15           **Q.     (BY MS. MACKIN) And so scrolling down to page**  
16 **5 of 14, there's an entry that says, "Colorado Senate**  
17 **Victory 2020." Are you familiar with Colorado Senate**  
18 **Victory 2020?**

19                  MS. BRAILEY: Same objection to the  
20 extent it calls for a legal conclusion and is outside  
21 the scope of the Notice.

22                  You can answer to the extent that you  
23 know.

24           A.     I'm not familiar with it, no.

25           **Q.     (BY MS. MACKIN) And then scrolling down to**

1 page 6 there's an entry for "Illinois Senate Victory  
2 2020." Are you familiar with Illinois Senate Victory  
3 2020?

4 MS. BRAILEY: I will make the same  
5 objection, object to legal conclusion and outside the  
6 scope.

7 You can answer.

8 A. No.

9 Q (BY MS. MACKIN) All right. Scrolling down to  
10 page 7 there's an entry for "Pennsylvania Senate 2016."  
11 It's listed as a Joint Fundraising Representative by the  
12 box indicated on the form. Are you familiar with  
13 Pennsylvania Senate 2016?

14 MS. BRAILEY: I'm going to raise the same  
15 objection, legal conclusion and outside the scope.

16 But you can answer.

17 A. No.

18 Q (BY MS. MACKIN) All right. Scrolling down to  
19 page 8 there's an entry on this form for "Michigan  
20 Senate Victory 2020," and the box ticketed says, "Joint  
21 Fundraising Representative." Are you familiar with  
22 Michigan Senate Victory 2020?

23 MS. BRAILEY: I'm going to make the same  
24 objection. So if we're going to go page by page, can I  
25 say that I'm going to make the same objection to these

1 pages so that I don't interrupt you; or I can just keep  
2 making the same objection?

3 MS. MACKIN: I'm fine with that.

4 MS. BRAILEY: So for the record, I'll  
5 make the same objection, legal conclusion and outside  
6 the scope for each of the pages 8 through 14 on  
7 Exhibit 4.

8 You can answer.

9 A. No. And I'll have the same answer for the  
10 rest of the pages.

11 Q (BY MS. MACKIN) So you've reviewed this  
12 entire document; and you're not familiar with any of the  
13 entities listed under -- and I'm reading from the form  
14 here -- "Name of Any Connected Organization, Affiliated  
15 Committee, Joint Fundraising Representative, or  
16 Leadership PAC Sponsor?

17 A. No. I mean, we can go through it but...

18 Q. I mean, we don't have to. If you're not  
19 familiar, I don't need to burn anybody's time.

20 All right. We will X out of that one.

21 MS. MACKIN: Okay. I am sharing a  
22 document in the chat box that will be Exhibit 5 to this  
23 deposition.

24 (Exhibit 5 marked.)

25 Q (BY MS. MACKIN) And your counsel provided

1 this to us via a link. Please go ahead and open up that  
2 document, and let me know when you are ready to discuss  
3 it.

4 A. Okay.

5 Q. Your counsel has represented to us this list  
6 reflects all of the transfers DSCC has made to the Texas  
7 Democratic Party between 2014 and the present; is that  
8 accurate?

9 A. I'm sorry. What date was this sent?

10 Q. Yesterday, so --

11 A. It's my understanding that, like, maybe  
12 yesterday or the day before, I think there was an  
13 additional transfer.

14 Q. Okay.

15 A. But it's all public. So if you go on FEC's  
16 website and you look up DSCC's disbursements to the  
17 Texas Democratic Party, you can find it.

18 Q. Okay. And does it appear that the criteria  
19 that were used to pull this report would pull all the  
20 transfers DSCC has made to the Texas Democratic Party  
21 between 2014 and the date that the report is run?

22 MS. BRAILEY: Objection to form.

23 A. Yeah. Sorry. You say criteria?

24 Q. (BY MS. MACKIN) So at the top -- sure. It  
25 says, "Disbursements." And then it says, "Viewing

1 filtered results." And underneath, there are some what  
2 appear to be filters that were input into the FEC  
3 website to pull this data. So if I were to enter these  
4 filters and run this report, let's say, today, as long  
5 as an additional disbursement had been processed, it  
6 would appear on that report, right?

7 MS. BRAILEY: Objection to form.

8 A. If you searched for the spender as the DSCC  
9 and the recipient as the Texas Democratic Party, that's  
10 all public. Everything that the DSCC brings in and  
11 every penny that the DSCC spends is public, and that's  
12 what the FEC filings would reflect.

13 Q (BY MS. MACKIN) Okay. Thank you.

14 Does DSCC have members who are eligible  
15 to vote in Texas?

16 MS. BRAILEY: Objection, that it calls  
17 for a legal conclusion.

18 You can answer to the extent that you  
19 know.

20 A. What do you mean by members?

21 Q. (BY MS. MACKIN) Well, does DSCC have members?

22 MS. BRAILEY: Again, objection to a legal  
23 conclusion.

24 You can answer.

25 A. What do you mean by members?

1 Q (BY MS. MACKIN) I guess whatever that means  
2 to you. I mean, is DSCC a -- is DSCC comprised of --  
3 does it represent the Democratic members of the Senate?  
4 Would those folks be regarded by DSCC as its members?

5 MS. BRAILEY: Objection to a legal  
6 conclusion.

7 But you can answer.

8 A. I don't know what our corporate filings would  
9 say about members. I mean, to the extent that you're  
10 asking how does DSCC interact with or associate with  
11 Democratic voters around the country, I mean, we have  
12 folks who sign up for our Listserv. We have people who  
13 donate to the DSCC. You know, I don't know that we have  
14 a set term for them. I think we call them "people on  
15 the Listserv" or "donors" or "supporters."

16 Q. Okay.

17 MS. MACKIN: I think that this is  
18 probably all I have; but do you mind if we go off the  
19 record for, like, five minutes for me to just take a  
20 look at my notes and make sure that I've covered  
21 everything?

22 MS. BRAILEY: Yeah, absolutely.

23 THE REPORTER: Going off the record at  
24 11:48 a.m.

25 (Off the record from 11:48 to 11:58 a.m.)

1 THE REPORTER: Going back on the record  
2 at 11:58 a.m.

3 Q (BY MS. MACKIN) All right. Just a few more  
4 questions, Ms. Schaumburg.

5 Has the DSCC developed any voter  
6 registration training materials?

7 MS. BRAILEY: Objection on the First  
8 Amendment.

9 You can answer at a high level.

10 A. What do you mean by "training materials"?

11 Q (BY MS. MACKIN) Sure. Any documents that you  
12 might provide to campaigns or DSCC staff to assist in  
13 voter-registration efforts.

14 A. So sitting here, I can't tell you. I'd have  
15 to check.

16 Q. Does the DSCC ever communicate with individual  
17 voters to assist them with voter registration?

18 A. Generally, the DSCC supports voter-  
19 registration efforts in states through the means that  
20 we've talked about, less on an individual basis, not  
21 that it wouldn't happen; but we provide support,  
22 funding, resources to state parties, to the campaigns  
23 for their grounding.

24 Q. Rather than DSCC actually communicating with  
25 the individual voter?



1 A. Not that we couldn't.

2 Q. Are you aware of it ever happening?

3 A. Of -- sorry. Am I aware of...

4 Q. Are you aware of the DSCC ever communicating  
5 directly with an individual voter to assist them with  
6 their voter registration in Texas?

7 A. So in a sense that, yeah, I mean, the DSCC had  
8 staff on the ground. Again, like, DSCC funded  
9 positions. You know, those staffers could be in charge  
10 of working on voter registration. So in that sense,  
11 sure.

12 Q. Okay. But what I'm trying to get at is a DSCC  
13 employee specifically. Are you aware of a DSCC employee  
14 ever communicating with a Texas voter to assist them  
15 with their voter registration?

16 MS. BRAILEY: Objection. I think that  
17 was just asked and answered from her last answer.

18 Q. (BY MS. MACKIN) I was just hoping for a "yes"  
19 or "no," like a clear answer.

20 A. So I think your first question was about Texas  
21 specifically. So can you rephrase your question?

22 Q. It was, but I'll ask it again. Are you aware  
23 of any DSCC employee directly communicating with a Texas  
24 voter to assist them with their voter registration?

25 A. So I think generally the DSCC supports voter-

1 registration activities by the things we've talked  
2 about.

3 **Q. And would that be a "no"?**

4 A. It's possible that they have.

5 **Q. Are you aware of any specific instance?**

6 A. Sitting here today, can I name a specific  
7 instance, like, a date and time? Not to that level of  
8 specificity. But the DSCC provides voter registration  
9 guidance, and it's -- you know, we do interact with  
10 individual voters in certain situations. So it's  
11 just...

12 **Q. So I guess I'm still just looking for, like, a**  
13 **"yes" or a "no."**

14 MS. BRAILEY: I'm going to object, again,  
15 on form.

16 **Q (BY MS. MACKIN) So would it be fair to say to**  
17 **that you are not aware of any DSCC employee directly**  
18 **communicating with an individual Texas voter to assist**  
19 **them with their voter registration?**

20 MS. BRAILEY: Objection.

21 A. I would --

22 MS. BRAILEY: Objection, mischaracterizes  
23 the witness.

24 A. I would have to check. I mean, we have field  
25 folks. We have a field team. So I haven't reviewed

1 with them, like, their specific conversations or every  
2 interaction that they've had with individual voters; but  
3 I would have to ask.

4 Q (BY MS. MACKIN) Okay. I want to jump back to  
5 Exhibit 2, page 6. Just going over the subpoena duces  
6 tecum, the documents that were subpoenaed for today's  
7 deposition, Category 1, which requests documents  
8 sufficient to substantiate certain factual allegations  
9 in your Complaint, do you know whether any documents  
10 were withheld in responding to this request on the basis  
11 of privilege?

12 MS. BRAILEY: Objection on the -- based  
13 on the attorney-client privilege.

14 Q. (BY MS. MACKIN) And just to be clear, I'm not  
15 asking whether -- what documents -- if the answer is  
16 "yes," I'm not inquiring into the substance of those  
17 documents sitting here today; but since we haven't  
18 received a privilege log, I'm inquiring into whether  
19 documents exist, just a "yes," "no," not seeking a  
20 description of the document or even at this point the  
21 privilege asserted, simply whether documents exist that  
22 were withheld on the basis of privilege.

23 MS. BRAILEY: Again, I'll make the same  
24 objection to preserve it.

25 But, Sara, you can answer as long as you

1 don't reveal our conversations.

2 A. Sitting here right now, I couldn't tell you.  
3 I'd have to check with counsel.

4 Q. (BY MS. MACKIN) Okay. Do you know with --  
5 would that be your answer with respect to all five  
6 categories of documents that were requested?

7 MS. BRAILEY: It would be my objection to  
8 all five categories.

9 You can answer.

10 Same objection.

11 A. That would be my answer to all five categories  
12 or to all categories regarding documents.

13 MS. MACKIN: All right, Ms. Schaumburg.  
14 Thank you for your time today.

15 I'll pass the witness.

16 MS. BRAILEY: Great. I just have a few  
17 questions.

18 EXAMINATION

19 BY MS. BRAILEY:

20 Q. Ms. Schaumburg, earlier today counsel asked  
21 you about money that the DSCC transferred to the Texas  
22 Democratic Party. Do you remember that?

23 A. Yes.

24 Q. And then I believe she also asked you  
25 questions about money that the DSCC transferred to the

1 Texas Democratic Party specifically this cycle. Do you  
2 remember that?

3 A. Yes.

4 Q. Okay. For that money that was transferred to  
5 TDP for this cycle, did T -- was that money used by TDP  
6 for voter-persuasion efforts?

7 A. That's my understanding.

8 Q. And was is it used for voter-registration  
9 efforts?

10 A. That's my understanding, yes.

11 Q. And was it used for Get-Out-the-Vote efforts?

12 A. So it's my understanding that it will be used  
13 for Get-Out-the-Vote efforts. It's, you know, a program  
14 that would ramp up closer to election day.

15 Q. And how do you know that the money transferred  
16 to TDP in this cycle from DSCC is used in these ways?

17 A. I mean, we -- we work closely with the state  
18 parties in our -- in the Senate states, including with  
19 the Texas Democratic Party, on programming, on advising  
20 them on various aspects of their campaign. And so, you  
21 know, we share our -- the DS and its employees share  
22 their insight and their expertise on how to manage a  
23 campaign, what the priorities should look like. And  
24 certainly voter registration is one of those top  
25 priorities and, you know, that the TDP's budget, what

1 they prioritize, the more funding that they have from  
2 whatever sources, the more they can invest in those  
3 activities. And so, you know, I think by providing,  
4 we've conveyed that voter registration is one of our  
5 priorities; and, you know, the more budget that TDP has  
6 to spend, the more they can invest in activities around  
7 that.

8 Q. Great. Thank you.

9 MS. BRAILEY: Those are all my questions.  
10 I'll pass the witness.

11 MS. MACKIN: All right. And I'd just  
12 like to note that we are going to hold this deposition  
13 open to the extent that there is any subsequent  
14 delinquent production of documents; and once we have an  
15 opportunity to evaluate the claims of privilege. But  
16 that's all that I have for today.

17 MS. BRAILEY: Okay. Great.

18 And, Debbie, can I get on the record that  
19 I'd like to read and sign and get a copy of the  
20 transcript.

21 THE REPORTER: Going off the record at  
22 12:09 p.m.

23 (Deposition recessed at 12:09 p.m.)

24 --ooOoo--

25

1 CHANGES AND SIGNATURE

2 WITNESS NAME: DATE OF DEPOSITION:

3 SARA SCHAUMBURG April 30, 2020

4 PAGE/LINE CHANGE REASON

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1 I, SARA SCHAUMBURG, have read the  
2 foregoing deposition and hereby affix my signature that  
3 same is true and correct, except as noted herein.

4  
5 \_\_\_\_\_  
6 SARA SCHAUMBURG

7  
8 THE STATE OF \_\_\_\_\_ )

9 Before me, \_\_\_\_\_, on  
10 this day personally appeared SARA SCHAUMBURG, known to  
11 me (or proved to me under oath or through  
12 \_\_\_\_\_) (description of identity card or other  
13 document) to be the person whose name is subscribed to  
14 the foregoing instrument and acknowledged to me that  
15 they executed same for the purposes and consideration  
16 therein expressed.

17 Given under my hand and seal of office on  
18 this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

19  
20  
21 \_\_\_\_\_  
22 NOTARY PUBLIC IN AND FOR

23 THE STATE OF \_\_\_\_\_

24 My Commission Expires: \_\_\_\_\_  
25



1 STATE OF TEXAS )

2

3 REPORTER'S CERTIFICATION

4

5 I, DEBBIE D. CUNNINGHAM, CSR, hereby  
6 certify that the witness was duly sworn and that this  
7 transcript is a true record of the testimony given by  
8 the witness.

9 I further certify that I am neither  
10 counsel for, related to, nor employed by any of the  
11 parties or attorneys in the action in which this  
12 proceeding was taken. Further, I am not a relative or  
13 employee of any attorney of record in this cause, nor am  
14 I financially or otherwise interested in the outcome of  
15 the action.

16 Subscribed and sworn to by me this day,  
17 May 8, 2020.

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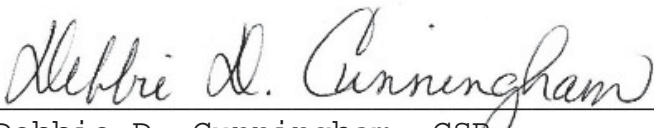
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Debbie D. Cunningham, CSR  
Texas CSR 2065  
Expiration: 6/30/2021  
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# Exhibit M

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.           \$  
   \$  
v.                                       \$ CIVIL NO. SA-16-CV-257-OG  
   \$  
ROLANDO PABLOS, in his official \$  
capacity as Texas Secretary       \$  
of State and STEVEN C. McCRAW, \$  
in his official capacity           \$  
as Director of the Texas           \$  
Department of Public Safety       \$

JARROD STRINGER, et al.           \$  
   \$  
v.                                       \$ CIVIL NO. SA-20-CV-46-0G  
   \$  
RUTH HUGHS, in her official       \$  
capacity as Texas Secretary       \$  
of State and STEVEN C. McCRAW, \$  
in his official capacity as       \$  
Director of the Texas               \$  
Department of Public Safety       \$

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE ORLANDO L. GARCIA  
CHIEF DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiffs:   REBECCA E. HARRISON STEVENS  
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                                  MIMI M.D. MARZIANI  
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13 Voting Rights Attorney  
14 Texas Civil Rights Project

15 FOR THE INTERVENORS: ARIA C. BRANCH  
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19 For the Defendants: CHRISTOPHER D. HILTON  
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22 Capital Station  
23 Austin, TX 78701

24 Produced by mechanical stenography; computer-aided  
25 transcription

1 (In open court)

2 THE COURT: All right. Good afternoon, everyone. You  
3 may be seated, and let's proceed. I'll call Cause Number 16 --  
4 rather, yeah, 16-Civil-257. George Stringer, Nayeli Gomez,  
5 John Harms, Move Texas Civil Fund, League of Women Voters, the  
6 Texas Democrat Party, Intervenor-Plaintiffs v. Ruth Hughs, the  
7 Texas Secretary of State Steven McCraw, the Director of DPS and  
8 the State of Texas.

9 I'll have some announcements from the plaintiffs.

10 MS. STEVENS: Yes, Your Honor. Beth Stevens on behalf  
11 of the plaintiffs.

12 THE COURT: And your name again, ma'am.

13 MS. STEVENS: Beth Stevens.

14 THE COURT: Stevens.

15 MS. STEVENS: Stevens. Yes, Your Honor.

16 THE COURT: All right.

17 MS. MARZIANI: Your Honor, Mimi Marziani on behalf of  
18 the Stringer plaintiffs.

19 THE COURT: Which one?

20 MS. MARZIANI: The Stringer plaintiffs.

21 THE COURT: Stringer.

22 MS. MARZIANI: Yes.

23 THE COURT: Okay.

24 MS. BRANCH: Good afternoon, Your Honor. Araia Branch  
25 on behalf of the Interveners, the Texas Democrat Party.

1 THE COURT: All right. And your name again, ma'am,  
2 again?

3 MS. BRANCH: Araia Branch.

4 THE COURT: All right. Anyone else back here?

5 MR. MIRZA: Hani Mirza on behalf of the Jerry Stringer  
6 plaintiffs.

7 THE COURT: Okay.

8 MS. SILHAN: Caitlyn Silhan on behalf of the Stringer  
9 plaintiffs.

10 THE COURT: You'll have to speak louder than that.

11 MS. SILHAN: Caitlyn Silhan on behalf of the Stringer  
12 plaintiffs.

13 THE COURT: All right.

14 MR. GONZALEZ: And Joaquin Gonzalez on behalf of the  
15 Stringer plaintiffs.

16 THE COURT: Okay. So I gather Mr. Stringer needs four  
17 lawyers. Okay. And from the State of Texas.

18 MR. HILTON: Chris Hilton, Your Honor, for the State.

19 THE COURT: From the Attorney General's Office?

20 MR. HILTON: Yes, sir.

21 THE COURT: All right. And your last name again, sir,  
22 was?

23 MR. HILTON: Hilton, H-I-L-T-O-N.

24 THE COURT: Okay.

25 MR. HILTON: And the representative from the Secretary

1 of the State and DPS as well.

2 THE COURT: All right. Thank you, counselor.

3 There was a motion filed I believe by plaintiffs. I  
4 thought I had that in my hands. That's the request that  
5 several websites be part of the record. That's your --

6 MS. STEVENS: That's correct, Your Honor.

7 THE COURT: Okay. Any position by the State of Texas  
8 on that?

9 MR. HILTON: Your Honor, are you referring to the  
10 motion for a traditional notice that they filed, we have no  
11 objection.

12 THE COURT: Okay. That's in then. All right. We're  
13 gathered today for a preliminary injunction. And I will let  
14 the plaintiffs begin to present their case. But before we get  
15 there, let me ask the State of Texas. So we have this process  
16 to where a person can go to DPS, rather not go to DPS, go  
17 online. He or she wants to either renew a license or update  
18 change of address. Can he or she today online register to  
19 vote?

20 MR. HILTON: Your Honor, I don't think that the facts  
21 have changed materially or relevantly since Stringer One, and I  
22 think as they've laid them out, overall we don't have an  
23 objection to their characterization of the process. The way  
24 the process works for that voter, or that customer of DPS --  
25 and I'll ask the folks to correct me if I'm wrong. But if

1 they've moved within the same county and therefore they are  
2 subject to the jurisdiction of the same county voter registrar.

3 THE COURT: M-hm.

4 MR. HILTON: That transaction with DPS, that will be  
5 effective to change their address. If they moved between  
6 counties--

7 THE COURT: M-hm.

8 MR. HILTON: -- they're not under the jurisdiction of  
9 a new voter registrar. That voter registrar has to register  
10 them on that county's voter rolls.

11 THE COURT: M-hm.

12 MR. HILTON: That requires a new registration  
13 application. And so the current process on the website and the  
14 way that it's been since before Stringer One was filed, is that  
15 the person on the DPS website is told that they're not  
16 automatically being registered. That they have to download the  
17 form and send that in.

18 THE COURT: I understand all that.

19 MR. HILTON: Yeah.

20 THE COURT: But my question was: If I'm online. If I  
21 want to go online right now, and let's pretend for a moment  
22 that my address has changed, can I go online either right here  
23 or in my office, and I want to update my address with DPS and  
24 it's at a new address in the county.

25 MR. HILTON: M-hm.



1 THE COURT: Can I register to vote doing that?

2 MR. HILTON: Yes, Your Honor. You can change your  
3 address today online.

4 THE COURT: I understand that I can change my address.  
5 My question is: Can I register to vote?

6 MR. HILTON: So in that situation, you hadn't been  
7 previously registered.

8 THE COURT: Okay. Let me change.

9 MR. HILTON: So in that situation you hadn't been  
10 previously registered.

11 THE COURT: Okay, let me change --

12 MR. HILTON: I'm sorry, I just want to make sure I  
13 understand. I'm sorry.

14 THE COURT: Let's make this simple. Let's say I just  
15 graduated from high school last May, and I want to register to  
16 vote, and coincidentally for whatever reason I didn't get a  
17 driver's license at age 15, 16, 17. I'm getting one now, and I  
18 need to update an address, and I want to register for the very  
19 first time in my life to begin this process of voting.

20 Can I go online to the DPS website and register to  
21 vote?

22 MR. HILTON: I understand the question, Your Honor.  
23 Let me confer real quick to make sure I give you the right  
24 answer.

25 THE COURT: Sure.

1 (Brief pause)

2 MR. HILTON: Thank you, Your Honor. For a first-time  
3 applicant, that person would have to follow the process of, you  
4 know, downloading the application and mailing it to the voter  
5 registrar.

6 THE COURT: Why? Why is that? Is that part of the  
7 statute, this National Voter Registration Act.

8 MR. HILTON: State law requires that a voter  
9 registration application be in writing and signed by the  
10 registrant.

11 THE COURT: Okay. Let's suppose then -- somehow or  
12 another I'm going to get to the example that I want to get to.  
13 Let's suppose I registered. Now I'm off going to UT Austin,  
14 which I did like 40, 50 years ago, and I was registered back  
15 home. But now I got to update my license. I'm in Austin. Can  
16 I go online and change my address from my back home on my  
17 license, and I don't want to vote back home. I want to vote  
18 over here in Austin. Now can I do that online?

19 MR. HILTON: You can change your driver's license  
20 address online. You would have to register to vote in the new  
21 county that you have moved to so you would have to go through  
22 the process of --

23 THE COURT: What is the process?

24 MR. HILTON: So as you're going through the DPS  
25 website, you will get to a screen, I think it's step five or

1 whatever number it is. Your Honor asked a question about it  
2 where it asks if you want to register to vote. If you say yes  
3 it tells you, you're not being automatically registered. You  
4 have to download the form, fill it out, and send it in to the  
5 voter registrar. There are other options available to you as  
6 well but that's one.

7 THE COURT: Let me ask it another way. I think that's  
8 why they give judges life tenure. If it takes a lifetime to  
9 get this answer, we'll stay here a lifetime.

10 MR. HILTON: I'm not trying to make it more difficult,  
11 Your Honor.

12 THE COURT: No, I understand. Or till God decides  
13 otherwise or I suppose the U.S. senate. Let me ask you this:  
14 Do you know of any person that has been registered to vote  
15 going through the Texas Department of Public Safety website?

16 MR. HILTON: Other than the circumstance of -- well,  
17 no, Your Honor. State law requires the registration through  
18 DPS to be in person or by mail.

19 THE COURT: Okay. So then this National Voter  
20 Registration Act is not applicable in Texas. Is that what  
21 you're telling me?

22 MR. HILTON: It's applicable, Your Honor. And Texas  
23 law complies with the NVRA. That's our position. And NVRA  
24 requires a process by which you can become registered to vote.  
25 It does not override all State requirements with respect to

1 voter registrations.

2 THE COURT: So the answer to my question is then you  
3 cannot register to vote by merely going to the DPS website. In  
4 other words, if I want to do that, I can't complete the process  
5 online, and then I cannot think because it would be  
6 incorrect -- I cannot think that I've now been registered to  
7 vote by simply going through to the DPS website.

8 Is that a correct statement?

9 MR. HILTON: That's correct, Your Honor. The NVRA  
10 does not require online voter registration nor does the  
11 constitution. Nothing requires online voter registration in  
12 the State of Texas.

13 THE COURT: Then what purpose does the Act then serve,  
14 the National Voter Registration Act?

15 MR. HILTON: The stated purpose of the act is to  
16 encourage voting to increase the number of voters. And, you  
17 know, it encourages and requires states to make that easier by  
18 combining -- by combining transactions.

19 THE COURT: Okay.

20 MR. HILTON: For the Motor Vehicle.

21 THE COURT: And how is Texas making it easier? You  
22 just said the whole purpose is to make transactions, to make it  
23 easier to combine multiple functions to achieve multiple  
24 purposes. In this case, get DPS to know where my new address  
25 is and to get the county voter registrar to know I've now

1 moved, and I want to be registered in a new polling site. So  
2 what is Texas doing to make it easier?

3 MR. HILTON: For in-person and mail transactions,  
4 there's nothing additional that the voter needs to do other  
5 than to say, yes, and to sign the application. And by mail  
6 you're signing the application.

7 THE COURT: What do you mean by in person?

8 MR. HILTON: In person at a DPS office, I'm sorry,  
9 Your Honor. That person will sign on -- they'll give a  
10 physical signature that's electronically captured.

11 THE COURT: M-hm.

12 MR. HILTON: And that signature will be collected by  
13 DPS. That will be sent to the Secretary of State.

14 THE COURT: And you know for a fact that that is being  
15 done?

16 MR. HILTON: For in person, yeah. Yes, Your Honor.

17 THE COURT: Okay. All right. What about online?

18 MR. HILTON: For online, you know, if I'm sitting at  
19 home doing an online transaction with the DPS, I can't sign  
20 anything because I'm at a computer. I don't have a physical  
21 application to sign. I don't have the special electronic pad  
22 to sign at the DPS office. So the signature requirement for  
23 State voter registration requires that person to download the  
24 voter registration form and send it in.

25 THE COURT: So what you are in effect are saying is

1 the DPS website cannot make a transaction allowing a person to  
2 register to vote.

3 MR. HILTON: Yeah, correct, Your Honor. I think I'm  
4 understanding you correctly. It does not do it automatically.  
5 And the person is notified of that. They're told exactly what  
6 they need to do in order to register to vote. And to the  
7 extent that the website can facilitate that by providing a  
8 registration application, the website does that.

9 THE COURT: Now let me ask you something, since a  
10 record has previously been made in the first go-around, is  
11 there any law that says we cannot use that record as part of  
12 this record?

13 MR. HILTON: For the purposes of the preliminary  
14 injunction hearing today, Your Honor, we don't have any  
15 objection to any of the evidence they attached to their motion,  
16 much of which was from the Stringer One case. We've submitted  
17 some deposition excerpts from that case as well. So for the  
18 purposes of today, we don't have any objection to that.

19 THE COURT: Okay.

20 MR. HILTON: I would object, Your Honor, if I may just  
21 briefly, they filed a reply brief with these exhibits attached  
22 to it while I was sitting here in the courtroom.

23 THE COURT: M-hm.

24 MR. HILTON: They provided me the exhibit copies. I  
25 haven't seen the brief.

1 THE COURT: Okay.

2 MR. HILTON: And so to the extent that I have had no  
3 notice of these exhibits, no ability to prepare for them.

4 THE COURT: Yes.

5 MR. HILTON: I think I have to object to the  
6 submission of those.

7 THE COURT: Sure. And don't feel bad. They filed  
8 stuff right here also. I haven't looked at it. Okay. Let's  
9 go. Let's bring up your witnesses.

10 MS. STEVENS: Your Honor, if I might correct a --  
11 well, actually, take up a couple of preliminary issues. One is  
12 to correct a mischaracterization of the online change of  
13 address within a county as it currently happens on DPS's  
14 website. So say I live in Travis County. I move from one  
15 address to another address. If I go on DPS's website online to  
16 tell DPS that I need to change my address for the driver's  
17 license, that does not -- there's no way to automatically  
18 through that system update my voter registration for change of  
19 address.

20 THE COURT: And why not?

21 MS. STEVENS: Because the State does not provide the  
22 ability to do that.

23 THE COURT: But he just told me something about an  
24 electronic. They can't do the electronic signature; is that  
25 correct or not or that's not needed.

1 MS. STEVENS: There's two issues here. One, we submit  
2 that the State can in fact create a system to have an  
3 electronic signature. It does it for other transactions. But  
4 putting that aside, they do not use a written, handwritten  
5 signature for voter registration purposes for in-person DPS  
6 transactions that result in voter registration and for mail in  
7 DPS transactions that result in voter registration. They use  
8 an electronic signature that is submitted by the voter at their  
9 last in-person transaction.

10 THE COURT: Okay. Go ahead.

11 MS. STEVENS: Okay.

12 MR. HILTON: I'm sorry, Your Honor, may I respond just  
13 briefly to two points?

14 THE COURT: Sure.

15 MR. HILTON: One, is I believe I misspoke earlier, and  
16 I was just corrected. When you move within a county, you can  
17 change your voter registration address online through  
18 votetexas.gov or through your county voter registrar, not from  
19 the DPS website.

20 THE COURT: And why is that? And why is that?

21 MR. HILTON: It has to be done through the voter  
22 registrar. The voter registrar -- the county voter registrar  
23 maintains the voter rules for the State of Texas. And so  
24 that's the process that's available. It's not through the DPS  
25 website. The other point I just wanted to briefly make, Your



1 Honor, with respect to the handwritten signature, I just want  
2 to be clear, the signature that's captured at an in-person DPS  
3 transaction, that's not an electronic signature in the way that  
4 I might sign a brief to the court where it just says slash-S  
5 and it's a typed version of my name. The person's hand is  
6 using a pen to write their signature. It's just not done with  
7 ink. It's done on an electronic pad, so an image of that  
8 handwritten signature is captured. I just want to make that  
9 distinction to the court.

10 THE COURT: Okay. All right. If you'll begin.

11 MS. STEVENS: Thank you, Your Honor. I'm handing a  
12 copy of our courtesy copy of our reply to opposing counsel.

13 THE COURT: Okay.

14 MS. STEVENS: All right. The other preliminary matter  
15 I want to take up, Your Honor, is I'd like to direct the  
16 court's attention to Page 2 of our reply. That's the document  
17 that was filed very recently.

18 THE COURT: Okay.

19 MS. STEVENS: Where we make clear that plaintiff John  
20 Harms, one of our individual plaintiffs, is only seeking a  
21 preliminary injunction based on his constitutional claims and  
22 not on his NVRA claims, whereas the remaining plaintiffs seek  
23 the preliminary injunction on both, both sets of claims.

24 THE COURT: All right. Go ahead.

25 MS. STEVENS: All right. I'd like to take 20 minutes

1 for argument and then reserve 10 minutes for rebuttal, if I  
2 might.

3 THE COURT: Okay. Do you have any witnesses?

4 MS. STEVENS: We intend to use documentary evidence,  
5 Your Honor.

6 THE COURT: Okay.

7 MS. STEVENS: And, actually, let's take that if we  
8 might -- may I offer the volume one and volume two of our  
9 exhibits, which includes a jump drive that has been provided to  
10 both the court and opposing counsel.

11 THE COURT: All right.

12 MS. STEVENS: So we'd offer those exhibits at this  
13 time.

14 MR. HILTON: The objection I explained to you earlier,  
15 Your Honor.

16 THE COURT: Well, okay. Go ahead.

17 MS. STEVENS: Thank you, Your Honor.

18 May it please the court, counsel. Since 2013 the  
19 State of Texas has violated the U.S. Constitution and the clear  
20 language of the National Voter Registration Act by refusing to  
21 treat online driver's license applications as voter  
22 registration applications. The State has been on notice of its  
23 failures since 2015 but has refused to fix the problem. As a  
24 result, in the last five years --

25 THE COURT: Let me ask the State, is that correct?

1 The State has not fixed the problem since 2015 or is it the  
2 State's position there's no problem to fix.

3 MR. HILTON: It's the State's position, Your Honor,  
4 that the State process and State law complies with NVRA and  
5 with the U.S. Constitution. The process has been the same  
6 since 2015.

7 THE COURT: Okay. All right. Go ahead.

8 MS. STEVENS: Thank you. As a result, in the last  
9 five years, the voting rights of an estimated 6 million Texans,  
10 including our clients, have been burdened by the State's  
11 ongoing violations. Additionally, our organizational  
12 plaintiffs are forced to divert significant resources to  
13 counteract the state's violations. As the court is well aware,  
14 we are in a unique posture at this hearing. The case we've  
15 been consolidated with, Stringer One, was filed in 2016. And  
16 in 2018, Your Honor ruled in favor of the Stringer One  
17 plaintiffs. The State appealed, and on November 13th, 2019,  
18 the Court of Appeals reversed based entirely on standing.

19 In its concurrence, Judge Ho observed that on the  
20 plain text of the statute the rule seemed simple enough. If  
21 it's good enough for motorist licensing, then it ought to be  
22 good for voter registration.

23 Judge Ho also acknowledged that plaintiffs have indeed  
24 endured an injury and it is a right they will never be able to  
25 recover. As citizens, we can hope it is a deprivation they

1 will not experience again and yet it has happened again. It  
2 has happened to Jarrod Stringer again, and it will happen to  
3 him at least once more in the future. And it has happened to  
4 our other individual clients and to thousands of other Texans.

5 THE COURT: Let me ask the State, does Mr. Stringer  
6 now have standing?

7 MR. HILTON: Your Honor, we wouldn't concede that at  
8 this point.

9 THE COURT: Well, at what point in time will  
10 Mr. Stringer have standing?

11 MR. HILTON: Well, Your Honor, I think that's a fair  
12 question. I think that's a factually intensive question.

13 THE COURT: All my questions generally rise to the  
14 level of being fair. But in any event, when if ever is  
15 Mr. Stringer going to have standing? He didn't the first time,  
16 and then Judge Ho said he didn't have -- that he was injured,  
17 but he didn't have standing. Well, I don't know if  
18 Mr. Stringer needs to use another computer or something else,  
19 but it happened again. So does he have standing now?

20 MR. HILTON: Your Honor, the Fifth Circuit explained  
21 that a past injury that is concluded with no substantial  
22 likelihood of suffering that injury again.

23 THE COURT: But he did.

24 MR. HILTON: But he did not prove that in Stringer One  
25 though.

1 THE COURT: Well, I think he's likely to prove it  
2 again but -- okay. I get the drift.

3 MR. HILTON: He's had another injury, Your Honor, or  
4 he at least alleges that he had. He still has not alleged and  
5 it remains to be seen whether he can prove that he still has  
6 that substantial likelihood going forward.

7 THE COURT: Okay. Go ahead.

8 MS. STEVENS: Thank you, Your Honor.

9 In both cases, Stringer One and Stringer two, the  
10 State has made its position quite clear. It will refuse to  
11 comply with federal law until this court orders it to do so.  
12 Texas voters be damned.

13 Each day the State refuses to change its practices,  
14 thousands of Texans are denied their right to voter  
15 registration application with an online driver's license  
16 transaction. This burden is especially acute now as we  
17 approach the primary election voter registration deadline next  
18 week and the primary runoff registration deadline on  
19 April 27th.

20 A week before last, plaintiffs in this case filed  
21 their complaint and their emergency application for preliminary  
22 injunction. Given the unique nature of this case and the  
23 consolidation of Stringer One and Stringer two, the court knows  
24 well how DPS and SOS handle invariant driver's license  
25 transactions. Those conducted in person, those conducted

1 through the mail, and those conducted online. For the  
2 transactions conducted online, which of course in Texas do not  
3 operate as a voter registration application, the record  
4 demonstrates that the State's policies fail to comply with the  
5 NVRA and the First and Fourteenth Amendments.

6 Although the court is already familiar with the  
7 relevant facts and law, due to the complicated posture of the  
8 present case, we respectfully ask the court to make an  
9 independent ruling as to the likelihood of success on the  
10 merits as it pertains to the instant plaintiffs. We  
11 additionally request the court to make its preliminary findings  
12 based solely on the record before it in this matter.

13 In Friday's order, Your Honor asked plaintiffs to  
14 address several issues. First, plaintiffs do agree that only  
15 one plaintiff needs standing for the court to enjoin the State  
16 from violating the NVRA and the constitution. However, as to  
17 the additional individual relief that our individual plaintiffs  
18 seek, namely to be registered to vote in time for the March 3rd  
19 primary election, they each must establish his or her own  
20 standing.

21 THE COURT: Okay.

22 MS. STEVENS: Pardon?

23 THE COURT: Okay. Go ahead.

24 MS. STEVENS: Second, the court asked whether standing  
25 to assert the new claims is the only new issue. Plaintiffs

1 believe the only new issue is the current plaintiff standing.  
2 But of course given the posture of the case and the hearing  
3 we're in, we must also show that the Stringer Two plaintiffs  
4 meet the factors for a preliminary injunction. And, finally,  
5 the court asked Plaintiffs to explain the scope of the  
6 preliminary injunction we seek. We included a detailed  
7 explanation of the relief sought in the reply that was filed  
8 recently and in our amended proposed order. But to be clear,  
9 plaintiffs seek the following two forms of preliminary  
10 injunction: One, by the end of the day on Friday January 31st,  
11 so this Friday, defendants register to vote the three  
12 individual plaintiffs based on the information provided in  
13 their last online DPS transaction.

14 And two: By Saturday March 28th, which is 60 days  
15 from today's date, every person who checks yes in response to  
16 the voter registration question that is currently posed by DPS  
17 during an online driver's license transaction is promptly  
18 mailed a pre-filled voter registration form with postage  
19 prepaid for the voter to sign and send back to the Secretary of  
20 State for mailing to the appropriate county voter registrar so  
21 that those individuals can then be registered to vote.

22 THE COURT: Okay.

23 MS. STEVENS: This is of course not as extensive as  
24 the ultimate remedy we hope to achieve. But we have carefully  
25 crafted this proposed preliminary relief taking into account

1 the State's response, our clients own ongoing injuries and the  
2 upcoming election deadlines. We shared our proposed  
3 preliminary request for relief with the State last night but  
4 have not reached any agreement obviously as the time of this  
5 hearing. I'll focus the remainder of my argument on  
6 plaintiff's standing and the factors for a preliminary  
7 injunction.

8 THE COURT: All right.

9 MS. STEVENS: So turning first to standing. Each  
10 plaintiff suffers a continuing injury directly traceable to the  
11 State's failures to comply with the NVRA and the U.S.  
12 Constitution. And those injuries will be redressed by the  
13 remedy sought. As the Fifth Circuit has made clear, for  
14 declaratory and injunctive relief, the injury in fact must be a  
15 continuing or future injury rather than a past injury. So I'll  
16 go through the injury for each plaintiff group.

17 THE COURT: Please.

18 MS. STEVENS: For the individual plaintiffs: Here all  
19 three individual plaintiffs injuries are still ongoing.  
20 They're all currently improperly registered to vote at their  
21 prior addresses because of the State's refusal to accept their  
22 online driver's license change of address application as a  
23 change of address for voter registration purposes. This is not  
24 a past harm but rather an ongoing and continuing harm.

25 Also, plaintiff Stringer will suffer an additional



1 concrete harm in the future if the State continues to refuse to  
2 comply with the NVRA and the U.S. Constitution. Mr. Stringer's  
3 rights will be violated again when no later than August 25th of  
4 this year he moves residences again. He is currently in a  
5 rental home and is going to buy a home prior to his lease  
6 expiring on August 25th, and he will subsequently use the DPS  
7 system to change his driver's license address, unless the State  
8 is forced to change their practices, he will again not be  
9 offered voter registration change of address.

10 For the organizational plaintiffs. The relevant  
11 inquiry here is whether the organization has to divert  
12 resources to counteract defendant's conduct and that the  
13 defendant's conduct is in conflict with the organization's core  
14 mission. As the Fifth Circuit has said, the injury alleged in  
15 Article III injury in fact need not be substantial. It need  
16 not measure more than an identifiable trifle. This is because  
17 the injury in fact requirement under Article III is qualitative  
18 not quantitative in nature. Both organizational plaintiffs  
19 here, Move Texas and the League of Women Voters of Texas,  
20 suffered two distinct injuries in fact, one related to voter  
21 registration and one related to voter education.

22 First, they're forced to expend significant resources  
23 to counteract the State's violations by registering voters  
24 whose online DPS transactions should have acted as simultaneous  
25 voter registration applications. Plaintiffs have identified

1 concrete ways they do this. They conduct voter registration  
2 drives in a variety of public forums, registering tens of  
3 thousands of voters over the course of the year. In  
4 particular, they frequently register voters who move from one  
5 Texas county to another. Lead member Phyllis Fenimore, for  
6 example, is active in the Wimberly area and regularly registers  
7 individuals who transacted with DPS online because they've  
8 recently moved to the Texas Hill Country but whose online  
9 transactions were not simultaneous voter registration  
10 applications.

11 Both the League and Move deputy registrars are active  
12 on college campuses in major metro areas where they register  
13 students who recently moved to the area and were unable to  
14 apply to register through DPS online. Second, plaintiffs  
15 divert resources to educate voters who mistakenly thought they  
16 were registered to vote through DPS online. It is a virtually  
17 universal experience that deputy voter registrars for these  
18 organizations come across people who mistakenly thought they  
19 applied to register or updated their voter registration when  
20 transacting with DPS online.

21 THE COURT: How did they learn they were -- how does  
22 the registrar, that deputy registrar learn that the person  
23 actually was not registered? Is it on occasion when the  
24 registrar tells this prospective voter, may I register you or  
25 however that conversation goes. And then that voter says, oh,

1 I did that online with DPS about three months ago. Is that  
2 when the deputy registrar then says, oh, if you did it online  
3 with DPS you in fact are not registered.

4 MS. STEVENS: That is often how it happens, Your  
5 Honor. Yes.

6 THE COURT: So you're saying your organization is  
7 injured in what matter? That now you have to spend time  
8 registering that person that otherwise would have been  
9 registered versus going and talking to someone else?

10 MS. STEVENS: Precisely. So they have to divert  
11 resources in two ways. They have to educate voters and the  
12 League of Women Voters educates the public on the fact that DPS  
13 online transactions do not act as voter registration  
14 applications, so there's an education component here. You may  
15 also divert resources to register the people who should have  
16 been registered through DPS's online system and were not. So  
17 they are two distinct diversion of resources.

18 THE COURT: Okay.

19 MS. STEVENS: And since they have to divert those  
20 resources, they're unable spend as much time and energy on  
21 other voter registration and voter education efforts as well as  
22 their get out the vote and election protection efforts that  
23 surround federal, state, and local elections across Texas.

24 THE COURT: Okay. All right.

25 MS. STEVENS: As reply -- the League, independently of

1 their organizational standing, also has associational standing  
2 on behalf on its members.

3 THE COURT: Okay.

4 MS. STEVENS: So now turning to the preliminary  
5 injunction factors, the court should grant a preliminary  
6 injunction immediately particularly in light of next week's  
7 voter registration deadline for the primary election and the  
8 swiftly approaching voter registration deadline for the primary  
9 runoff election. All factors are in plaintiff's favor. First,  
10 a likelihood of success on the merits. This has been fully  
11 briefed in the application for preliminary injunction which  
12 demonstrates there's a strong likelihood of success on the  
13 merits for both the NVRA and the constitutional claims.  
14 Although this court is already familiar with the relevant facts  
15 and law, again, to avoid procedural complications, we  
16 respectfully ask the court to make an independent ruling as to  
17 the likelihood of success on the merits as it pertains to the  
18 instant plaintiffs.

19 Second, irreparable harm to each plaintiff group. By  
20 definition, an irreparable injury is one that cannot be undone  
21 by monetary damages. In our reply, we highlight multiple ways  
22 in which all plaintiffs are irreparably harmed and emphasize  
23 the acute nature of these harms due to the impending voter  
24 registration deadlines and voting periods for the primary  
25 election and the primary runoff election.

1           Irreparable harm to the individual plaintiffs: The  
2 individual plaintiffs in this case face irreparable harm next  
3 Monday, February 3rd, 2020, when they will be forced to either  
4 give up their legal right to register to vote under federal law  
5 or they'll face disenfranchisement in the March 3rd primary  
6 election. Jarrod Stringer will additionally face irreparable  
7 harm in the 2020 general election after he moves again at the  
8 latest in August of this year.

9           THE COURT: M-hm.

10           MS. STEVENS: And will be required to change his  
11 driver's license address, which he plans to do online.  
12 Irreparable harm to the organizational plaintiffs. I  
13 previously highlighted the ways that Move and the League divert  
14 their resources to counteract the State's violations for the  
15 purposes of standing. These injuries are not only sufficient  
16 for standing but are irreparable because every minute they  
17 spend counteracting the State's failures is a minute they can  
18 never get back. The fact that the League is an all volunteer  
19 organization only highlights the non-compensable nature of the  
20 harm caused by defendants. Also, both organizations contact  
21 voters through a variety of mediums and countless voters are  
22 educated by their efforts and are inspired to go vote. So on  
23 top of the diversion of resources, to register and educate  
24 voters, irreparable harm occurs when individuals whom the  
25 League and Move educate and inspire to go vote are unable to do

1 so because they mistakenly thought they registered through  
2 DPS's online system and are disenfranchised at the polls as a  
3 result.

4 Finally, we know that irreparable harm of  
5 disenfranchisement happens to many Texans. We know from the  
6 organizational plaintiffs own encounters. And we estimate that  
7 in 2018 alone, 735 voters across the State were disenfranchised  
8 because of the State's violations in this case.

9 THE COURT: How many people?

10 MS. STEVENS: 735 at least.

11 THE COURT: Okay.

12 MS. STEVENS: We explained fully in our reply,  
13 attached to our reply is Joaquin Gonzalez' declaration and  
14 explained fully in there the math for how we get to that  
15 number, Your Honor.

16 Irreparable harm to the League as an associational  
17 plaintiff, the League is a membership organization --  
18 organization whose members are individually irreparable harmed  
19 every day the State continues to thwart federal law. With  
20 approximately 3,000 members across the State, League members  
21 regularly transact with DPS online to renew driver's licenses  
22 or change their addresses. DPS's own employee testified in  
23 Stringer One that approximately 1.7 million -- excuse me --  
24 1.5 million Texans or 5.5 percent of Texans transact with DPS  
25 online each year. This equates roughly 166-League members

1 transacting online with DPS each year or roughly one every  
2 other day. This includes Emily Ebby, a member of the League  
3 who in November of 2019 moved from Travis County to Harris  
4 County. Updated her driver's license through the online DPS  
5 system. But her driver's license of course did not act as a  
6 change of address for her voter registration. And thus she is  
7 currently improperly registered to vote in her old county at  
8 her old address.

9 THE COURT: M-hm.

10 MS. STEVENS: Third, any harm to the defendants is  
11 outweighed by irreparable harm to the plaintiffs. As the court  
12 can see in the reply that we filed, the harmed defendants claim  
13 they will suffer if a preliminary injunction is issued is  
14 negligible. Based on the defendant's own submissions, the  
15 preliminary relief requested should pose at most a routine  
16 administrative burden on the State. The case law makes clear  
17 that administrative burdens of this nature are outweighed by  
18 their irreparable harm posed to the plaintiffs.

19 First, defendants already do some of what we're asking  
20 for mail-in renewal notifications wherein they send voter  
21 registration forms to DPS customers through the mail and those  
22 forms are then sent back by DPS customers to the Secretary of  
23 State for mailing on to the proper voter registrar.

24 And, again, individual plaintiffs will suffer when  
25 they're forced next Monday to give up their legal right to

1 register to vote through a DPS online transaction or to face  
2 disenfranchisement in the March election.

3 The organizational plaintiffs are also suffering  
4 irreparable harm as the State's unlawful practices hamper their  
5 voter education, get out the vote, and election protection  
6 efforts in this critical time leading up to the voter  
7 registration deadlines and voting periods.

8 Lastly.

9 THE COURT: M-hm.

10 MS. STEVENS: An injunction serves the public  
11 interest. Congress clearly expressed where the public interest  
12 lies in the actual text of the NVRA stating: The right of  
13 citizens of the United States to vote is a fundamental right.  
14 It is the duty of the federal, state, and local governments to  
15 promote the exercise of that right. And the purpose of the  
16 NVRA is to establish procedures that will increase the number  
17 of eligible citizens who register to vote in elections for  
18 federal office. And courts consistently agree that public  
19 interest lies in greater civic participation. Recognizing, for  
20 example, that by definition, the public interest favors  
21 permitting as many qualified voters to vote as possible.

22 Thus, we respectfully request the court to as fast as  
23 possible, given the quickly approaching voter registration  
24 deadline, enter a preliminary injunction.

25 THE COURT: Let me ask you. In other states, in other



1 states, voters can register online with their motor vehicle,  
2 whatever their DPS agency is?

3 MS. STEVENS: Yes, Your Honor.

4 THE COURT: Is that true in all 49 other states?

5 MS. STEVENS: I think it's -- I'm trying to recall  
6 from the deposition testimony that's been attached to our  
7 reply. I think it's something like either 28 or 38 states.  
8 38 -- excuse me, Your Honor.

9 THE COURT: So it's your position that a person in  
10 Texas who wants to go online to change his or her address with  
11 DPS for their license, for purposes of their license, and  
12 there's a question I guess that comes up and says, do you want  
13 to register to vote, right, or something like that.

14 MS. STEVENS: Close. Close to that, Your Honor. It  
15 says, do you want to download a voter registration form.

16 THE COURT: Do you want to what?

17 MS. STEVENS: Download a voter registration form.

18 THE COURT: Walk me through the process.

19 MS. STEVENS: Sure. So a potential voter who is  
20 transacting online at DPS for a renewal or a change of address,  
21 logs on, inputs some information to establish that they are who  
22 they say they are. And then they have to enter certain  
23 information for that transaction as it relates to the driver's  
24 license information.

25 THE COURT: Right.

1 MS. STEVENS: And then I think counsel for the State  
2 is right, that at step five you answer a question about voter  
3 registration. And that question of course changed.

4 THE COURT: And what's the question.

5 MS. STEVENS: Now it says -- it's something like: Do  
6 you want to download a voter registration form.

7 THE COURT: Okay. And let's say the person clicks,  
8 says yes.

9 MS. STEVENS: The person says yes. Then on the last  
10 page it's called the receipt page. There is a link to the  
11 Secretary of State's website, so a wholly different website.

12 THE COURT: Okay.

13 MS. STEVENS: Where the person can go and has to  
14 download, print, fill out, sign, and mail in a form. Notably,  
15 anyone can access the system that is linked in the DPS system.  
16 It is not special for DPS customers.

17 THE COURT: Okay. So where do you claim the State is  
18 not compliant? You mean, thus far what you have told me, if  
19 the person says, yes, I want this -- a downloaded ballot. Not  
20 a ballot. A registration form. You go through that process,  
21 and I print it. Where in the process like Mr. Stringer, where  
22 did the system fail him?

23 MS. STEVENS: The question.

24 THE COURT: If it failed him.

25 MS. STEVENS: It absolutely failed him. The question

1     should say something like: Do you want to register to vote.  
2     The way that it does for in-person driver's license  
3     transactions and mail-in driver's license transactions right  
4     now, it should have a similar question on the online system.  
5     The person checks yes. And then their information that is  
6     already provided for purposes of driver's license.

7             THE COURT: Right.

8             MS. STEVENS: Should go through the way it does  
9     already for driver's license information to DPS to their  
10    system. Once it gets to that system, if they checked yes to  
11    the voter registration question, all of the appropriate  
12    information should then go on to the Secretary of State's  
13    office and down to the proper voter registrar. The exact same  
14    way they do this for in-person driver's license transactions  
15    and mail-in transactions.

16            THE COURT: So your claim is that a person like  
17    Mr. Stringer or someone in his position isn't given that  
18    opportunity to merely press a button or whatever and his  
19    information goes directly to the Secretary of State.

20            MS. STEVENS: That's right. The NVRA --

21            THE COURT: Your claim is that the -- this National  
22    Registration Act requires the State of Texas to provide that  
23    service?

24            MS. STEVENS: Yes, Your Honor.

25            THE COURT: In that manner.

1 MS. STEVENS: In that manner. The NVRA requires the  
2 Voter Registration Application to be simultaneous with the  
3 driver's license application.

4 THE COURT: Okay.

5 MS. STEVENS: And in fact says that the State cannot  
6 require duplicate information for each of these forms, and so  
7 we know the system that the State currently has set up, a  
8 person who goes through the process they have set up have to  
9 fill out duplicate information, if they fill out that voter  
10 registration form. Their name again, their address, their  
11 driver's license number and on.

12 THE COURT: Okay. Now going back to question number  
13 five.

14 MS. STEVENS: Yes, sir.

15 THE COURT: Let's say, Is that process only available  
16 for people who want to change voter registration information or  
17 can a new time -- first-time voter make an application through  
18 the DPS website?

19 MS. STEVENS: Do you mean what -- how should it be or  
20 how is it currently?

21 THE COURT: How is it currently?

22 MS. STEVENS: Currently, anyone who uses the DPS  
23 system for mail-in renewal and whether they've been registered  
24 to vote previously or not can access -- assuming they check  
25 yes.

1 THE COURT: I see.

2 MS. STEVENS: -- can access this form.

3 THE COURT: All right. So now do you have the number  
4 of transactions -- the number of people, let's say last year in  
5 2019 or 2018.

6 MS. STEVENS: M-hm.

7 THE COURT: -- who went to the DPS website and made a  
8 simple transaction of just notifying -- either trying to renew  
9 a license or change of address. I'm not talking about voting.  
10 I'm just talking the number of people that renewed online or  
11 changed their address online. Do you have the numbers of that?

12 MS. STEVENS: The State has the most up-to-date  
13 numbers. We have the estimation from 2016 so we imagine it  
14 went up from there at about 1.5 million Texans.

15 THE COURT: Okay. Now, we really know based on  
16 experience that not all 1.5 people are registered, right?  
17 There's a lot of folks that are driving. Hey, I just want my  
18 license. I don't want to be involved in anything else. And  
19 nothing as radical as voting, right. So how many people of the  
20 1.5 million do we know are registered to vote?

21 MS. STEVENS: We do not know the answer to that  
22 question, Your Honor, because the answer to that question is  
23 the only information that DPS does not track in that  
24 transaction.

25 THE COURT: Okay. All right. Good enough. Thank

1 you.

2 MS. STEVENS: Thank you, Your Honor. Oh, I'm going to  
3 hand it over to Intervenor-Plaintiffs.

4 THE COURT: Oh, I'm sorry, go ahead.

5 MR. HILTON: And, Your Honor, I need to note a couple  
6 of objections with respect to the Intervenorors. First, we filed  
7 a motion to sever, which I know the court will consider in due  
8 course so we object to the cases being joined to them being  
9 part of the case. Also --

10 THE COURT: And why do you object?

11 MR. HILTON: The case in which they intervene which we  
12 oppose, was a case over which Your Honor had no jurisdiction to  
13 do anything other than dismiss the claims. And our position is  
14 that by allowing them to intervene, you exceeded the scope of  
15 the Fifth Circuit's mandate, so they've intervened into a case  
16 which should not be an open case.

17 THE COURT: Okay.

18 MR. HILTON: We also object to their participation in  
19 this preliminary injunction hearing. They have not intervened  
20 into this case, Stringer Two. They're not a party to this  
21 case. They haven't asked to join in Stringer Two.

22 THE COURT: Okay.

23 MR. HILTON: So they shouldn't be participating.

24 THE COURT: All right.

25 MR. HILTON: And finally, Your Honor, everything that

1 they filed this morning, their summary judgment motion, their  
2 motion to join, they haven't provided me copies with any of  
3 that.

4 THE COURT: Okay.

5 MR. HILTON: I was on the road, not able to see any of  
6 that. I think there's just a process issue with me not being  
7 able to respond to what they're arguing today. I'll just note  
8 that.

9 THE COURT: If you'll address all those matters plus  
10 whatever you were going to say.

11 MS. BRANCH: Yes, Your Honor.

12 THE COURT: Go ahead.

13 MS. BRANCH: May it please the Court. My name is  
14 Araia Branch for the intervenors. With respect to the  
15 severance motion, we obviously haven't responded to that yet.  
16 But we oppose the motion to sever. Your Honor, has already  
17 ruled that the cases are properly consolidated for purposes of  
18 judicial economy. And we think that issue is settled. Even if  
19 the cases are severed, we move to intervene in Stringer One in  
20 which case we would be properly before the court in Stringer  
21 One.

22 THE COURT: All right.

23 MS. BRANCH: We have not asked to join Stringer Two  
24 because Your Honor consolidated the two actions.

25 THE COURT: All right. Go ahead.

1 MS. BRANCH: We filed a motion to -- and Your Honor  
2 granted our motion to join the Stringer plaintiffs motion for  
3 preliminary injunction. Ms. Stevens has already provided the  
4 argument and we join that argument. I just wanted to make a  
5 few points specifically about intervenor's standing as  
6 requested by the court's order.

7 THE COURT: Okay.

8 MS. BRANCH: And I'll just respond to the first  
9 question, which is whether standing is the only new issue since  
10 Stringer One was first decided. We agree with the Stringer  
11 plaintiffs, standing remains the only issue. The law and the  
12 facts have not changed, and I think the state's attorney has  
13 made that clear both in briefing and in argument thus far  
14 today. As stated in our motion for summary judgment, which I  
15 understand we're not here to discuss today, we've requested a  
16 separate hearing on that. The Texas Democratic Party, the DCCC  
17 and DSCC each have organizational and associational standing.  
18 As Ms. Stevens stated, the law is clear that diversion of  
19 resources confirms organizational standing on particular  
20 plaintiffs. And really I think the controlling case here is  
21 Crawford v. Marion County with respect to political parties  
22 where the seventh circuit held that the democratic party of  
23 Indiana had standing to challenge the state's voter ID law  
24 because it was forced to divert resources from its other duties  
25 in order to educate voters and to counteract against the harm



1 of that law.

2 THE COURT: Okay.

3 MS. BRANCH: The Supreme Court in footnote seven of  
4 the appeal of Crawford stated again, it affirmed the Seventh  
5 Circuit that the democrat party of Indiana had standing and  
6 that it was not required to address the standing of the other  
7 petitioners because in direct response to Your Honor's  
8 question, only one petitioner is required to have standing in  
9 order for a matter to proceed.

10 The Texas Democrat Party, the DCCC, and the DSCC have  
11 already suffered and will continue to suffer from having to  
12 divert resources to counteract defendant's unconstitutional  
13 conduct in terms of their voter registration practices from  
14 their other activities. Each of these parties missions is to  
15 elect democrat candidates in Texas. As a result of defendant's  
16 conduct, they are having to engage in larger voter registration  
17 efforts and they're having to divert resources, time, talent,  
18 and other financial obligations away from their obligations  
19 to -- and their activities to work to elect democrat  
20 candidates. For example, in the declaration that we provided,  
21 Mr. Maxey, who is the primary director of the Texas Democrat  
22 Party states that the party has now created the largest voter  
23 registration program in Texas history in part to counteract the  
24 harm that is caused by defendant's practices. And,  
25 specifically, the parties joined the Stringer plaintiffs motion

1 for a PI with respect to the equal protection claims not with  
2 respect to the NVRA claims. And specifically the harm here is  
3 that the State does not permit simultaneous voter registration  
4 for individuals who interact with DPS online even though they  
5 permit simultaneous voter registration for individuals who  
6 interact with DPS by mail and in person.

7 Similarly, the DCCC is having to engage in an  
8 expansive effort to increase voter registration in order to  
9 counteract defendant's conduct that will result in voters being  
10 disenfranchised including Mr. Stringer, as Your Honor has  
11 already discussed. The DSCC similarly is spending additional  
12 money on get out the vote efforts and voter persuasion efforts  
13 in order to compensate for voters who won't be able to vote as  
14 a result of the state's illegal voter registration practices.

15 The parties each also have associational standing on  
16 behalf of their members, and I think the controlling case there  
17 again is Hunt and also Crawford from the Supreme Court. That's  
18 basically all I was going to address. I just wanted to make  
19 clear that the Intervenor's do have standing, and we join the  
20 Stringer plaintiffs motion for preliminary injunction with  
21 respect to the equal protection claims. Thank you, Your Honor.

22 THE COURT: All right. Anyone else on the plaintiff's  
23 side?

24 MS. STEVENS: No, Your Honor.

25 THE COURT: No. Go ahead counsel. I tell you what,

1 let's take a brief recess.

2 (Brief recess)

3 THE COURT SECURITY OFFICER: All rise.

4 THE COURT: All right. Okay. You may begin,  
5 counselor.

6 MR. HILTON: Chris Hilton for the State. Plaintiff's  
7 counsel said that this case is about folks needing to give up  
8 the right to register to vote or be disenfranchised. But any  
9 eligible Texan --

10 THE COURT: If they go through the DPS route, they  
11 will be, right?

12 MR. HILTON: I'm sorry.

13 THE COURT: If they go the DPS route, they will. Is  
14 that correct?

15 MR. HILTON: No, Your Honor.

16 THE COURT: Okay.

17 MR. HILTON: Any eligible Texan who wants to vote in  
18 the March election, can register to do so regardless of what  
19 the court decides on plaintiff's motion.

20 THE COURT: And they can do so by going through the  
21 DPS website?

22 MR. HILTON: They can do so -- they can do so -- yes.  
23 If a Texan decides they want to register to vote while they're  
24 renewing their driver license online or changing their address  
25 with DPS, defendants have a process in place for them to do

1 that. Voters can also register in person. They can register by  
2 mail.

3 THE COURT: So are the plaintiffs wrong? See, there's  
4 a disconnect here. They say it's not being done, and you're  
5 saying it can be done. So when they say a person cannot  
6 register to vote simply by going to the DPS website, you're  
7 saying they're wrong.

8 MR. HILTON: What I understand their argument to be is  
9 that someone can't register in the manner in which they would  
10 prefer it to work. The NVRA requires defendants -- requires  
11 the State to have a process by which someone who is interacting  
12 with DPS can also get together a voter registration  
13 application. The State has a process in place. It's one the  
14 plaintiffs don't like but we have a process in place.

15 THE COURT: And your process, see if I understand this  
16 correctly. I'm not trying to argue with you.

17 MR. HILTON: I understand.

18 THE COURT: I'm trying to understand where the  
19 confusion or source of the problem is. You're telling me I go  
20 to DPS, I can print an application or something but they're  
21 suggesting that the law requires that you have a system to  
22 where I can just take care of it online and DPS transmits that  
23 information to the Secretary of State. Are you saying that  
24 does not -- that is not required by the law?

25 MR. HILTON: That's our position, Your Honor. That's

1 our disagreement on the merits. Yes, sir.

2 THE COURT: Okay. And why is the State correct? Tell  
3 me -- your way is do it this way. You can you print a deal off  
4 and send it over to the voter registrar. That's what you're  
5 saying is the process now?

6 MR. HILTON: Yes, Your Honor.

7 THE COURT: Okay. Go ahead.

8 MR. HILTON: Your Honor, as I was saying, any Texan  
9 who wants to vote in the upcoming elections, which plaintiffs  
10 have repeatedly stressed is their motivation for their motion  
11 today, can register to vote regardless of what the court  
12 decides on plaintiff's motion. Voters can register in person.  
13 By mail. They can download a voter registration form. They  
14 can pick one up from libraries, high schools, or government  
15 offices. They can ask their county voter registrar to mail  
16 them a registration form, at least in some counties like Bexar  
17 County. If they've moved within the same county, they can  
18 update their registration online right now today on  
19 votetexas.gov. If they need help, they can contact their  
20 county voter registrar or the Secretary of State. And, yes,  
21 they also have this DPS process available to them.

22 THE COURT: M-hm.

23 MR. HILTON: All these methods of voter registration  
24 are lawful, most if not all have been in place for many years.  
25 Contrary to what plaintiffs would have this court believe, the

1 right to vote in Texas does not depend on the court granting  
2 plaintiff's motion. Likewise, this case is not merely a  
3 continuation of the 2016 claims like plaintiff Stringer, though  
4 there's some overlap. As this court has already and correctly  
5 recognized, we all must begin anew with the new claims of the  
6 new parties. The sole question before the court today is  
7 whether plaintiffs have proven that they are entitled to one of  
8 the most extraordinary remedies that this court has the power  
9 to grant. The decision to grant any preliminary injunction is  
10 the exception and not the rule. Plaintiffs' burden is even  
11 higher where as here they're asking the court's -- the court to  
12 force defendants to act rather than simply maintaining the  
13 status quo that's been in place for years. And plaintiffs'  
14 burden is higher still where the defendants are State actors  
15 because of the respect afforded to State governments in our  
16 federal system.

17 Your Honor, defendants submit that plaintiffs cannot  
18 turn their loss at the end of the previous case into a complete  
19 win at the very outset of this litigation. They should not be  
20 permitted to shortcut the judicial process. They have not  
21 sustained their heavy burden and their motion should be denied.

22 And, Your Honor, before I talk about the preliminary  
23 injunction factors, there's something that I feel like I have  
24 to address.

25 THE COURT: Sure.

1 MR. HILTON: One of the things that plaintiff's  
2 counsel said in her presentation was that it was the position  
3 of the State and the defendants that this is the process.  
4 Texas voters be damned. That's what she said. And I don't  
5 want a Secretary of State elections division employee to read  
6 that and think that I didn't stand up for them. They've  
7 dedicated their careers to serving the voters of the State of  
8 Texas, and so I take exception to that remark.

9 THE COURT: All right.

10 MR. HILTON: Your Honor, I'll begin with irreparable  
11 harm. Plaintiff's counsel said that any nonmonetary harm is  
12 irreparable harm and that's not true. That's not the standard.  
13 That's part of it. But it has to be a harm that's going to be  
14 suffered and cannot be avoided absent intervention by the  
15 court. The question before the court with respect to  
16 irreparable harm is, Do you have to act in order to avoid this  
17 injustice or is there anything else that can be done to avoid  
18 it. Here, Your Honor, there's no question that something else  
19 can happen to avoid that harm. As I described at the  
20 beginning, there are many means that are completely lawful and  
21 have been in place for years for any eligible Texan to register  
22 to vote in time for the upcoming elections. Your Honor,  
23 another thing that plaintiff's counsel said is that every  
24 minute counts, particularly with respect to the organizational  
25 plaintiffs. And that's an area where we agree. And it's

1 because the organizational plaintiffs have delayed for years in  
2 bringing this now supposed emergency. They go -- they have  
3 repeatedly said that this process has been in place since at  
4 least 2015, even before then. Nothing new about this process  
5 has caused all of a sudden an emergency to arise other than  
6 plaintiff deciding to bring an emergency motion. And, Your  
7 Honor, the law is well established that delay alone can  
8 undermine an assertion of irreparable harm. If defendants, and  
9 particularly the organizational -- if plaintiffs and  
10 particularly the organizational plaintiffs, were truly being  
11 irreparably harmed, you would expect them to act with urgency.  
12 And that lack of urgency here, waiting for years before  
13 bringing an emergency motion, completely undermines their  
14 assertion that they've been irreparably harmed.

15 THE COURT: Well, they could have been waiting for the  
16 outcome of the last case, right.

17 MR. HILTON: Your Honor, I'm glad you asked that. The  
18 last case did not involve these organizational claims.

19 THE COURT: I understand. But they could have been  
20 hoping for a different outcome.

21 MR. HILTON: All the while suffering what they allege  
22 is an irreparable harm. If it was truly irreparable --

23 THE COURT: M-hm.

24 MR. HILTON: -- such that they couldn't afford to wait  
25 for the outcome because they're suffering harm that can't be



1 undone--

2 THE COURT: Right.

3 MR. HILTON: -- which is what they've argued to you,  
4 they should have acted sooner, and they didn't. They waited  
5 for years. Courts have found that substantially shorter  
6 periods of delay have undone the urgency that is required to  
7 justify granting preliminary injunctive relief. Periods as  
8 short as three months, ten weeks, six months have been found to  
9 undermine an assertion of irreparable harm. Even counting the  
10 date of the Fifth Circuit's decision, that's, you know, that  
11 was back in November. We're still months away from that. And  
12 instead they waited.

13 Move Texas has been in existence since 2013. So as  
14 long as Move Texas has been around, this has been the process.  
15 The League of Women Voters of Texas has been around since 1919,  
16 long before the internet, the NVRA, any of these processes have  
17 been around. And they've been doing this work for as long as  
18 these processes have been in place. Your Honor, they say that  
19 every minute counts, and I agree. Every minute that they spent  
20 waiting proves to Your Honor that the harm that they contend  
21 they're suffering is not an emergency. It's not irreparable  
22 harm that justifies the extraordinary relief they've asked for.

23 Your Honor, I also want to talk about the individual  
24 plaintiffs. For the reasons I explained earlier, the harm that  
25 they potentially face in connection with these upcoming

1 elections is not irreparable. They do not need this court to  
2 act in order for them to be able to register to vote or to  
3 update their change of address. One of the plaintiffs, I think  
4 it's Ms. Gomez, alleges that she moved within the same county,  
5 within Bexar County I believe. She can go online right now to  
6 Move Texas -- or votetexas.gov and update her voter  
7 registration address. She does not need Your Honor's help to  
8 do that. You do not need to enter an injunction in order to  
9 protect the voting rights of any Texan who wants to  
10 participate. And the question of whether eligible voters  
11 should have to engage in one of these other methods of voting,  
12 that's a question for the merits of the dispute. We disagree  
13 about that. The question on harm for Your Honor is whether you  
14 need to act in order to avoid the harm. You don't. Any voter  
15 who wants to participate in these elections can do so if they  
16 choose, and there's still plenty of time left for them to do  
17 that.

18 THE COURT: So I guess what you're saying is there's  
19 an existing remedy.

20 MR. HILTON: That's right. And it's one that you  
21 don't need to impose. It's a remedy of the voter can go  
22 register. They can go in person. I explained all this in the  
23 beginning --

24 THE COURT: There's other manners of doing it.

25 MR. HILTON: Exactly right, Your Honor.

1 THE COURT: All right. Go ahead.

2 MR. HILTON: So they will not suffer the harm absent  
3 an injunction by this court. That's the standard.

4 THE COURT: All right.

5 MR. HILTON: Your Honor, I also want to move next to  
6 the harm to defendants and the public interest where as here  
7 the defendants are State agencies. These factors tend to  
8 merge, so I'm going to discuss them together. The harm to  
9 defendants here is that the plaintiffs have asked for an  
10 injunction that we cannot possibly comply with. Now,  
11 fortunately for me, they filed their amended proposed order as  
12 I was leaving the office and someone was able to get it in my  
13 hands so I could read it. The proposed order that they filed  
14 with their motion absolutely was insufficient, and that is  
15 reason enough alone to deny their motion. I briefed that, Your  
16 Honor, and now that they have the amended order, I'm not going  
17 to belabor the point. But, Your Honor, this to a certain  
18 extent is about fairness. It's about process. It's about the  
19 ability of defendants to know what it is they're defending  
20 against. I could not adequately analyze the harm to defendants  
21 and the public interest based on this order that I read for the  
22 first time sitting over at the coffee shop right before I came  
23 into the courthouse. Neither could defendants. We couldn't  
24 understand what it was they were asking for. And we tried our  
25 best to tell Your Honor what would be entailed for the kinds of

1 changes that they might be asking for. We did our best. And  
2 the State agencies that looked at this and who would  
3 potentially be involved with these changes, none of them could  
4 complete their work in time for the March election or for the  
5 primary runoff. None of them could complete their work in time  
6 for the 60-day arbitrary deadline that they have now asked for.

7 THE COURT: Okay.

8 MR. HILTON: The DIR, which is the Texas Department of  
9 Informational Resources maintains the Texas.gov website for  
10 driver's license transactions. It would take them -- they  
11 estimate it would be take them 90 days to complete that work.  
12 DPS estimates that its work -- and, again, for the most  
13 barebone type of change would take seven to 11 weeks. And the  
14 Secretary of State's office could take at least 60 days, if not  
15 more, again, for the smallest possible easiest to implement  
16 kind of change. So those periods may overlap somewhat, and it  
17 will take close coordination between all those agencies. But,  
18 you know, under these scenarios, even with a much more limited  
19 injunction, there's no way that we could comply in time for  
20 these elections.

21 Now, Your Honor, with this amended order, what they're  
22 asking here is not a matter of weeks. It's a matter of months,  
23 if not a year, if not more. They're asking for something that  
24 does not exist. It's an entirely new application, an entirely  
25 new piece of software, an entirely new structure that would

1 have to be built from the ground up. It would take close  
2 coordination with all three of those agencies, other vendors.  
3 It would be a massive undertaking and certainly not one that  
4 could be completed within 60 days.

5 And I might as well talk about the rest of the amended  
6 order now. They've asked that the Secretary of State to ensure  
7 that the individual plaintiffs will be registered to vote no  
8 later than this Friday at 6:00 p.m. The Secretary of State has  
9 absolutely no authority to do that. The Secretary of State is  
10 not the voter registrar in the State of Texas. The county  
11 voter registrars are the ones who maintain the voter rolls so  
12 the Secretary of State, the defendants here can't give the  
13 relief that they're asking for.

14 And now with respect to this more systemic change that  
15 they've asked for, you know, part of it, you know, I think that  
16 we know what some of it means. I think I know what a  
17 pre-populated voter registration application is. And I have to  
18 respond to one thing. They said that they shared the relief  
19 with me last night. They gave me a preview. They did not give  
20 me this proposed order.

21 THE COURT: All right.

22 MR. HILTON: And the expense involved with this would  
23 certainly be very significant to the State. And without  
24 knowing that, I can't tell Your Honor exactly what the harm to  
25 defendants would be. But to even analyze this would take

1 significant time for us, and we'll certainly do so as quickly  
2 as we can, if the court would like us to do so. But this is  
3 just not an injunction that we can comply with.

4 Your Honor, plaintiffs also, yeah, they characterize  
5 that as a mere, mere administrative burden. It couldn't be  
6 further from that. It is a massive undertaking. It is a huge  
7 project what they've asked for.

8 THE COURT: Okay.

9 MR. HILTON: Your Honor, plaintiffs also failed to  
10 account for the uncertainty, the confusion, the harm to the  
11 public that would occur if this court were to enter a sweeping  
12 injunction that create a systemic change to the voter  
13 registration processes on the eve of an election at the 11th  
14 hour. They seem to think that somehow that would solve the  
15 public's problems, and we would get fewer complaints. They  
16 can't justify that. We know from experience, the defendants  
17 know from experience, when changes are made to voter  
18 registration processes, to any election process, there is a  
19 certain amount of friction that comes with that. There will be  
20 uncertainty and additional burdens to the defendants, and it  
21 will cause harm to the public because folks won't necessarily  
22 know, am I registered to vote. Did this DPS transaction count?  
23 Will the future one count? Again, at the 11th hour of an  
24 election, that's not the appropriate time to implement that  
25 kind systemic change on an impossibly short timeline.

1           And, Your Honor, there's also the -- part of the  
2 problem also with what they've asked for, it's harm to the  
3 defendants and it's harm to the public interest, is that  
4 they're asking this court to override the duly enacted laws of  
5 the State of Texas. It's not enough that they've just alleged  
6 a constitutional injury. We disagree on the merits of that.  
7 And the Fifth Circuit has never ruled on that. In the Fifth  
8 Circuit's opinion, it ruled only on standing. And Judge Ho's  
9 concurrence, not with standing, they did not reach the merits.  
10 So we don't have a ruling from the merits on the Fifth Circuit.  
11 And there is case law that I signed in our opposition, that any  
12 time that the laws of a State are overridden, that constitutes  
13 an irreparable harm to the State and to its people. The duly  
14 enacted laws of the State of Texas are the expressed will of  
15 the people. And the court should not lightly overrule them,  
16 particularly where as here they haven't made the showing as to  
17 harm.

18           Your Honor, excuse me, I want to touch on the  
19 likelihood of success, Your Honor. I don't want to spend a  
20 great deal of time on it because from the experience of  
21 Stringer One, Your Honor is certainly familiar with the issues,  
22 at least some of the issues in this case.

23           THE COURT: M-hm.

24           MR. HILTON: But their success on the merits here is  
25 not automatic. As Your Honor has noted, we are beginning anew

1 with these new claims and these new parties.

2 THE COURT: M-hm.

3 MR. HILTON: With respect to standing, in particular,  
4 Your Honor, you know, we have not responded to the merits of  
5 these complaints. We haven't filed a responsive pleading yet.

6 THE COURT: Right.

7 MR. HILTON: For the Stringer Two plaintiffs, we don't  
8 have to do so until March. And so we're still evaluating our  
9 arguments, and we will present any issues we have with standing  
10 in due course. But to at least preview for Your Honor, and,  
11 you know, Your Honor is right to be concerned about standing  
12 here because the Fifth Circuit made clear that what they have  
13 to show as far as likelihood of repeating injury in the future,  
14 it's a tricky burden for them to meet.

15 For purposes of today -- I'm sorry, excuse me, so I  
16 want to begin with the Intervenor and the organizational  
17 plaintiffs. You know, with respect with the Intervenor, as I  
18 mentioned before, we respectfully disagree with the court's  
19 decision to allow them to intervene, so there's that standing  
20 jurisdictional issue. With respect to associational standing,  
21 which is one of the arguments they make, they can't show that  
22 in this case. This type of standing requires three elements.  
23 It requires that the organization's members would otherwise  
24 have standing to sue in their own right. It requires that the  
25 interests the organization seeks to protect are germane to the



1 organization's purpose. And it requires that neither the claim  
2 asserted nor the relief requested requires participation of the  
3 individual members. And that's *United Food and Commercial*  
4 *Workers Union Local 751 v. Brown Group*. 517 U.S. 544, 553. At  
5 least the first and third of those elements are clearly  
6 problematic for the plaintiffs. The first element that the  
7 members would have standing to sue in their own right -- the  
8 standing of individuals here is tricky. The Fifth Circuit made  
9 that clear. And so none of these organizations can assert with  
10 a broadbrush that all of their members would have standing.

11 Now, with respect to participation, clearly that's not  
12 met here either because this is a highly individualized tricky  
13 factual question with respect to individuals have standing for  
14 this type of claim.

15 THE COURT: M-hm.

16 MR. HILTON: And so they absolutely would have to  
17 participate. And the organizations cannot tell you that across  
18 the board all their members have standing. Organizational  
19 standing is also potentially problematic for the plaintiffs.  
20 They're pursuing a diversion of resources area that's clear  
21 from their filings, and it's clear today. But not every  
22 diversion of resources to counteract a defendant's conduct  
23 establishes an injury in fact. That's the Fifth Circuit.  
24 *NAACP v. City of Kyle* 626 Fd.3d 233, 238. Activities which  
25 basically boil down to examining and communicating about

1 developments in the law and do not differ from routine  
2 activities of the organization do not confer standing. That's  
3 the same case. That's the same cite. That sounds a lot like  
4 they described here today. It's the routine activities of  
5 these organization to educate voters about developments in the  
6 law, and these are their routine activities that they would be  
7 doing no matter the standard of law with respect to this issue.

8         They have to show a concrete and demonstrable injury  
9 with a consequent drain on resources constituting far more than  
10 simply a setback to the abstract social interests of the  
11 organization. That's from *Havens Realty Corp. v. Coleman* 455  
12 U.S. 363, 379. Clearly, the organizational plaintiffs have a  
13 steep burden here, and it's one they may not be able to  
14 overcome. They have made vague assertions about their voter  
15 education efforts. They have not attempted to quantify the  
16 extent of the impact. And they've argued that it's a  
17 qualitative rather than a quantitative injury. Well, they have  
18 to show a concrete and demonstrable injury. And they have not  
19 done that.

20         We also have concerns about the standing of the  
21 individual plaintiffs. With respect to Ms. Gomez, I mentioned  
22 her earlier. She has alleged that she moved within Bexar  
23 County. She can update her voter registration address today  
24 online. Her standing must at least seriously be questioned.  
25 Mr. Harms appears to have the same problem that Mr. Stringer

1 did in the first case. He complains only of a past harm and  
2 he's not alleged any substantial risk that he will suffer a  
3 potential future injury absent the requested relief. That's  
4 from the Fifth Circuit Stringer case at 721.

5 Mr. Stringer here has at least added the allegation  
6 that he intends to move later this year but that alone doesn't  
7 solve his standing problem. If he moves within the same  
8 county, he'll be in the same position as Ms. Gomez, and he can  
9 register -- change his voter registration address online.  
10 Moreover, standing is not created by a declaration in court  
11 pleadings. That's *Mississippi State Democrat Party v. Barber*  
12 *529 Fd.3d 538 at 545*. That's all he has done so far is  
13 declared in court pleadings. As Your Honor knows, if this  
14 proceeds to discovery, it could unearth very different facts  
15 from what's been alleged. So, as I said, we will raise and  
16 pursue our arguments on standing in due course. There may be  
17 others we haven't touched on here.

18 THE COURT: Right.

19 MR. HILTON: We may not assert all these in the  
20 motions to dismiss but that's -- the court is right to be  
21 concerned about standing.

22 And the last point -- so to bring it back to the  
23 preliminary injunction factors, the last point I want to make  
24 on the likelihood of success is that this is only one factor.  
25 The plaintiff's bear the burden -- they bear the burden to

1 prove all four factors. If they prove likelihood of success  
2 today, that doesn't mean that they win. It is not a substitute  
3 for these other factors. They can't collapse the other factors  
4 into likelihood of success, as Your Honor well knows.

5 Your Honor, I think that's everything I have with  
6 respect to the preliminary injunction motion itself.

7 THE COURT: Okay.

8 MR. HILTON: Your Honor, has also ordered -- I  
9 apologize. Let me get organized here. The order from last  
10 Friday had a long list of questions, and I would like to  
11 address those.

12 THE COURT: Go ahead. And you got time. Go ahead.

13 MR. HILTON: I appreciate it, Your Honor. Just one  
14 moment while I reorganize myself here.

15 THE COURT: Question Number 5A: If defendant's  
16 practices have changed, and I suppose your response to that is  
17 nothing has changed, correct? So that part you don't need to  
18 address.

19 MR. HILTON: Correct, Your Honor. There have been no  
20 material changes with our practices with respect to online  
21 driver's license renewal and DPS --

22 THE COURT: Right. And therefore B is not relevant if  
23 no change has not been made.

24 MR. HILTON: Correct, Your Honor. With respect to  
25 number one -- I was just going to go in order here.

1 THE COURT: Go ahead.

2 MR. HILTON: I know Your Honor mentioned Number 5.  
3 With respect to number one, I think 5A and one overlap a little  
4 bit. So with respect to one, I think the only thing that, you  
5 know, for the most part we agree. The practices and law hasn't  
6 changed. But I think we would say that, you know, as the court  
7 has recognized, we're beginning anew because this matter  
8 involves new parties bringing distinct claims. Nothing is  
9 known about any of the plaintiffs, other than Mr. Stringer,  
10 beyond what's been alleged. So our position I think is the  
11 same as the court's, which is that, you know, we're starting  
12 from scratch in this case. There certainly will be -- I'm sure  
13 will be efficiencies that we can have given that Stringer One  
14 in this case substantially overlap. But our position is that  
15 we're entitled to a full opportunity to have our arguments  
16 considered with a fresh look and, you know, hopefully we can be  
17 more convincing to the court this time around, at least in that  
18 sense. Because defendants should have the opportunity to fully  
19 litigate again, we would say that in that sense all issues are  
20 new.

21 So number two, I think I've already covered number two  
22 was Your Honor's concerns about standing.

23 With respect to number three, whether only one  
24 plaintiff or movant needs standing to proceed. We agree with  
25 that subject to what I think is an important qualification.

1 And I think plaintiff's counsel touched on this as well. The  
2 court's determination as to who has standing for a preliminary  
3 injunction will have a significant impact on the scope of the  
4 relief that it should entertain. If the court were to find  
5 only one individual plaintiff has standing to proceed, that  
6 individual would be permitted to seek a preliminary injunction.  
7 But the appropriate scope of relief on that motion brought by a  
8 single individual would be very different from a kind of  
9 sweeping systemic change if there were more plaintiffs or if  
10 there were organizations involved. Of course we don't think  
11 any kind of preliminary injunction is warranted, but I think  
12 that's our position with respect to number three.

13 Number four: The facts already developed, I think  
14 we've already covered. At least for the purposes of today, we  
15 don't oppose--

16 THE COURT: Right.

17 MR. HILTON: -- that with the exception of the  
18 objections I had to the Intervenor's exhibits and with the  
19 late-filed exhibits that we had no notice of and weren't able  
20 to review.

21 So moving on to number five which from defendant's  
22 perspective at least was kind of the meat of Your Honor's  
23 order. You know, 5A I think we've covered the changes. 5B was  
24 about this step five of the online process plaintiff's describe  
25 it more or less accurately in their injunction and Your Honor

1 has asked questions about it today. I think that's the crucial  
2 step where the parties start to disagree in this case. We've  
3 submitted to Your Honor deposition excerpts from Stringer One  
4 that I think have the best explanation. And with respect to  
5 the difference of the forms, I'm hopeful this is helpful to  
6 Your Honor, I'm not sure that it will be. But those  
7 differences are attributable to the different process that is  
8 used for in-person and mail transactions versus online,  
9 transactions. We've talked about some of those differences  
10 today. And we contend that all those processes are lawful but  
11 they're not identical in the ways that we've covered today.

12 Now with respect to C, D, and E, Your Honor has asked  
13 for the total number of persons in various categories. We  
14 explain this in the submission this morning, Your Honor. The  
15 court is asking for data that defendants simply don't have.  
16 That yes or no answer that's the crucial component of each of  
17 these requests is not -- you know, it's not kept in the online  
18 process that we have, so we just can't simply answer the  
19 question.

20 THE COURT: All right.

21 MR. HILTON: We've attested to that. Apologies to the  
22 court. We just don't have the data. With respect to F, Your  
23 Honor asked about continuing violation or continuing injury.  
24 You know, of course we dispute there was any injury at all.  
25 But, you know, if that -- if the continuing violation or

1 continuing injury doctrine has application here, it would be up  
2 to the plaintiffs to explain and argue how that helps their  
3 claims. And the Fifth Circuit has been reluctant to expand the  
4 reach of that doctrine. There's a case *McGregor v. LSU Board*  
5 *of Supervisors* 3 *Fd.3d* 850. And I have a quote from 866  
6 Footnote 27: The Fifth Circuit has said, Courts including this  
7 one are wary to use this doctrine to save claims outside the  
8 area of Title 7 discrimination cases.

9 If there is, you know, -- so its applicability is in  
10 doubt here at the very least. If there is any wrongful conduct  
11 in this case, it occurs at the time of the defendant's alleged  
12 actions or in this case the alleged inaction of treating the  
13 DPS interaction as a voter registration. Defendants don't take  
14 any further action after that with respect to any of those  
15 individuals after that transaction is completed. So because  
16 the alleged violation is a discrete occurrence, it's not a  
17 continuing violation. Once the actions of the defendants have  
18 stopped, that ends the violation. There's a difference, and  
19 the Fifth Circuit has said from the *McGregor* case as well: We  
20 must be careful not to confuse continuous violations with a  
21 single violation followed by continuing consequences. Only  
22 continuous unlawful acts can form the basis of a continuous  
23 violation. I think for that reason, Your Honor, we would say  
24 that doctrine doesn't have any applicability here. But, again,  
25 it would be plaintiff's burden I think to explain how that



1 would help their claims.

2 Now, with respect to 5G, Your Honor, this is an area  
3 where we weren't able to get the court the exact number that  
4 you asked for but we were able to get a number that may be  
5 helpful, and we wanted to at least provide that since we were  
6 able to.

7 THE COURT: Okay.

8 MR. HILTON: We were able to put together the number  
9 of in-person and mail transactions combined, and so the  
10 important clarifications here are that this is only the number  
11 of transactions. It's not the number of people. So, you know,  
12 if someone transacted multiple times, they would be double  
13 counted so we would expect the number of people to be lower.  
14 We don't now how much lower. It may be substantially. We just  
15 don't know.

16 THE COURT: Right.

17 MR. HILTON: And we can't separate out in-person  
18 versus mail transactions. It's just all of those combined  
19 together.

20 THE COURT: All right.

21 MR. HILTON: And we explained a little bit about how  
22 we put that together. I can answer questions for Your Honor,  
23 if you'd like. But the bottom line is that number of  
24 transactions since November 2016 is a little over 6 million  
25 transactions in person or by mail where DPS then eventually

1 sent some data to the Secretary of State. And so that means  
2 for those 6 million transactions the customer would have said,  
3 yes, I want to register to vote.

4 The other limitation to that number that I want to  
5 stress for the court is that, you know, we can tell whether DPS  
6 sent the data to the Secretary of State, and the Secretary of  
7 State could find for the court the total number of  
8 registrations that came from DPS over a particular time period,  
9 but we can't answer the question as Your Honor has asked  
10 because the Secretary of State doesn't track or differentiate  
11 what kind of DPS transaction generated the data. So we  
12 wouldn't be able to separate out in-person, mail, online. We  
13 just know the number of --

14 THE COURT: Okay.

15 MR. HILTON: -- data entries we've gotten from DPS.  
16 So, unfortunately, just because of that system limitation, I  
17 don't know that the Secretary of State has any additional  
18 details on these questions that they can provide.

19 With respect to age, Your Honor you asked the number  
20 of times the Secretary of State has rejected electronic  
21 signatures. I explained to Your Honor earlier that what is  
22 meant here by electronic signature. The response to this was  
23 also stated in our notice. The Secretary of State doesn't have  
24 the authority to reject the electronic images of signatures  
25 from DPS for any reason, fraud included. That information is,

1 you know, the voter registrar may -- the county voter registrar  
2 may be able to do some something with that but it wouldn't be,  
3 you know -- well, I'll stop there just simply because the  
4 Secretary of State doesn't have the ability to answer that  
5 question for you.

6 THE COURT: All right.

7 MR. HILTON: And doesn't have the authority to reject  
8 any electronic images of signatures from DPS.

9 With respect to five: I -- we answered that I believe  
10 in the attachments to our opposition to the preliminary  
11 injunction motion to the extent we were able to. And with  
12 respect to six, I think I've shared with Your Honor what I was  
13 able to come up with, with respect to their new proposed order.  
14 So I think that's everything that I have. I would be happy to  
15 answer any more questions Your Honor has.

16 THE COURT: That's fine. Okay. Thank you. Go ahead.

17 MS. STEVENS: Your Honor, might we have another short  
18 break just to gather.

19 THE COURT: Yes, of course. All right. Thank you.

20 (Break)

21 THE COURT SECURITY OFFICER: All rise.

22 THE COURT: All right. You may be seated. Thank you.  
23 Okay. Let's continue. Go ahead.

24 MS. STEVENS: Thank you, Your Honor. I'd like to turn  
25 first to the plaintiff's standing. For the individual

1 plaintiff standing, I'd like to highlight the differences  
2 between the individual plaintiffs in Stringer One and the  
3 individual plaintiffs in the current lawsuit in Stringer Two.  
4 In Stringer One, all three individual plaintiffs transacted  
5 with DPS online, were not provided the opportunity to register  
6 to vote. But before we filed our lawsuit, they all got  
7 registered to vote in a different manner.

8 THE COURT: You mean the plaintiffs in Stringer One.

9 MS. STEVENS: That's correct, Your Honor.

10 THE COURT: Right -- and who -- how did they get  
11 registered?

12 MS. STEVENS: Two of them were registered through the  
13 provisional ballot process so they cast a provisional ballot,  
14 and it automatically registers you to vote.

15 THE COURT: Right.

16 MS. STEVENS: And then Mr. Stringer himself registered  
17 at an on-campus voter registration drive.

18 THE COURT: Okay.

19 MS. STEVENS: But the Fifth Circuit pointed directly  
20 to fact that they had been registered to vote before we filed  
21 that lawsuit in holding that they did not have standing. In  
22 contrast to that, the three individual plaintiffs in this case  
23 are still -- do not have updated voter registration. So they  
24 are still registered to vote at their prior addresses, and that  
25 was true last week when we filed the lawsuit. It's true today.

1 THE COURT: And now they can't vote at their prior  
2 address. Is that correct?

3 MS. STEVENS: That's correct. So the -- under the  
4 NVRA, they're entitled to receive voter registration through  
5 this driver's license transaction. They did not get it. That  
6 harm is ongoing even as we stand here today.

7 THE COURT: Okay.

8 MS. STEVENS: For the organizational plaintiffs, we  
9 briefed substantially the diversion of resources that they --  
10 that they -- the resources they divert to counteract the  
11 defendant's conduct in this case.

12 THE COURT: Okay.

13 MS. STEVENS: And that's the voter registration of  
14 people who should have been registered and its education.

15 THE COURT: M-hm.

16 MS. STEVENS: Turning to the likelihood of success on  
17 the merits. There was some statements about what the NVRA  
18 requires that I would like the clear up for the court. The  
19 NVRA requires that each driver's license application including  
20 any renewal application serve as a simultaneous application for  
21 voter registration. And the NVRA states that the voter  
22 registration section of the driver's license -- driver's  
23 license's application forms, quote, may not require any  
24 information that duplicates information required in the  
25 driver's license portion of the form.

1           The State cannot dispute that its process is not a  
2 simultaneous application and it does require duplicate  
3 information. There's no way that they can dispute that, and  
4 they did not do so in Stringer One.

5           THE COURT: M-hm.

6           MS. STEVENS: Turning to irreparable harm. The  
7 definition of irreparable harm is that it cannot be  
8 compensated. And the cite for that is 542 F-Appendix 329 at  
9 335. It's a Fifth Circuit case. Also, the State relies on  
10 seven cases in their response all of which are inapposite to  
11 the situation here.

12           THE COURT: Well, what's the response to, if I  
13 understood counselor correctly for the State, all of these  
14 people can in fact register, you know, go down to their county  
15 registrar or go online to I guess directly to the Secretary of  
16 State website or whatever website it is.

17           MS. STEVENS: M-hm.

18           THE COURT: Isn't he correct about that, that before,  
19 you know, this imminent harm that's going to occur prior to  
20 February 3rd or will occur on the 3rd, can not each of them do  
21 that and avoid the harm?

22           MS. STEVENS: No, Your Honor. Without citing any case  
23 law, the State suggests, like you say, that the individual  
24 plaintiffs could be made whole by simply abandoning their  
25 statutory and constitutional right to simultaneous voter

1 registration application with their driver's license  
2 transaction and find another way to register before Monday's  
3 deadline. That position overlooks extensive precedent  
4 confirming that quote. Any restriction on the fundamental  
5 right to vote constitutes an irreparable injury including --  
6 and this is not in quotes. Including unlawful burdens on the  
7 manner of registration or voting that will not necessarily  
8 cause disenfranchisement. So the State is completely incorrect  
9 in this regard. The fact that the plaintiffs will have to give  
10 up their right under federal law is the harm, and coming up  
11 with some other way that they can register to vote does not  
12 solve the problem.

13 THE COURT: Does not solve the problem.

14 MS. STEVENS: Correct.

15 THE COURT: Okay. All right.

16 MS. STEVENS: As to the allegation that the  
17 organizational clients improperly somehow delayed in filing  
18 their lawsuits. First of all, that is different from saying  
19 that the organizational plaintiffs are not irreparably injured.  
20 The State relies on seven cases for this proposition all of  
21 which are inapposite. Indeed, five are trademark or patent  
22 cases and involve the very different situation of a plaintiff  
23 seeking to enjoin the business practices of a competitor on the  
24 grounds that such practices are hurting the plaintiff's  
25 business. Under those very different fact patterns, which did

1 not involve constitutionally protected rights, courts explain  
2 that a delay in bringing suit after the discovery of the  
3 alleged violation undercut the claim that monetary damages were  
4 insufficient. Federal courts have repeatedly granted, and we  
5 cite these in our reply. We cite at least three cases in our  
6 reply, and we're happy to do further briefing on this, Your  
7 Honor. Federal courts repeatedly grant preliminary relief  
8 against longstanding State election laws.

9 Turning then to the remedy. It is not credible that  
10 the State can come in here and say they have no idea how long  
11 it will take to give us a full fix, an entire fix of the  
12 situation.

13 THE COURT: Why is that not credible to believe?

14 MS. STEVENS: Because the relief we -- the ultimate  
15 relief we seek, not what we're asking the court for today in  
16 the preliminary injunction, but the ultimate relief we seek has  
17 been the same relief sought since they were put on notice of  
18 these violations in 2015. They were sued for in early 2016.  
19 We had discovery on in 2017 etc. etc.

20 THE COURT: M-hm.

21 MS. STEVENS: But --

22 THE COURT: But that's not to suggest that even if  
23 that's true, you're saying they've had this knowledge since  
24 2015, let's assume that. It may require a lot of extensive  
25 time, effort, and money to cure by the proposed deadline that



1 you're seeking.

2 MS. STEVENS: Your Honor, that's actually counter to  
3 the testimony that was provided in Stringer One where it was  
4 described by DPS employees, described by Secretary of State  
5 employees as not being the difficult fix they claim it to be  
6 now.

7 THE COURT: Okay.

8 MS. STEVENS: Additionally, in the declarations  
9 provided -- I think they were filed yesterday, they, for  
10 example, I think the DIR declarant listed out various things  
11 for their normal process. You know, you submit a request for a  
12 change. The change goes through this next step, then someone  
13 else considers it. Those are all their normal processes.

14 THE COURT: Okay.

15 MS. STEVENS: If a court were to order them to jump  
16 through those faster than their normal course, they could do  
17 that. And they've not said they can't.

18 THE COURT: All right.

19 MS. STEVENS: But notably for this hearing right now,  
20 the preliminary injunction we seek is not that full fix.

21 THE COURT: M-hm. Okay.

22 MS. STEVENS: We, again, reviewed the state's response  
23 yesterday and have narrowed our requested preliminary relief.

24 THE COURT: Okay. And what specifically is that?

25 MS. STEVENS: Yes, Your Honor.

1 THE COURT: Give me the precise interim relief you're  
2 asking for.

3 MS. STEVENS: Yes, Your Honor. As to the individual  
4 plaintiffs, we are asking for the defendants to register them  
5 to vote with the information that they previously provided  
6 during their last online driver's license transaction.

7 THE COURT: You mean, you're saying for the State of  
8 Texas to get whatever they filed with DPS already and get them  
9 registered?

10 MS. STEVENS: That's correct, Your Honor.

11 THE COURT: All right.

12 MS. STEVENS: And we're asking the court to order that  
13 they do that by the end of the day on Friday January 31st.

14 THE COURT: But I believe counselor's response to that  
15 was, well, the Secretary of State doesn't do that. Each  
16 individual county registrar does that. Is he correct on that?

17 MS. STEVENS: The voter registrars are responsible for  
18 voter registration in their county. But the Secretary of State  
19 is claiming a hands-off that they don't actually have under  
20 State and federal law. In fact, under the NVRA itself, the  
21 Secretary of State is the State election officer and is tasked  
22 with making sure that the State complies with the NVRA.

23 THE COURT: That's in the statute.

24 MS. STEVENS: That's correct, Your Honor.

25 THE COURT: So what you're telling me, the statute

1 provides that a Secretary of State can do this.

2 MS. STEVENS: It provides that the Secretary of State  
3 can ensure that it's done, and particularly Section 8 of the  
4 NVRA says: Each state -- and so, again, Secretary of State is  
5 tasked with making sure the State is in compliance.

6 THE COURT: Okay.

7 MS. STEVENS: Each state shall ensure that any  
8 eligible applicant is registered to vote in an election.

9 THE COURT: Okay.

10 MS. STEVENS: Pardon me, Your Honor. And, in fact,  
11 counsel told you just moments ago that the Secretary of State  
12 made sure that the 6 million people who transacted with DPS in  
13 person and through the mail and checked the yes box to the  
14 voter registration, were transmitted from the Secretary of  
15 State -- excuse me, from DPS to Secretary of State and on to  
16 the voter registrars and that those people were then -- were  
17 then registered.

18 THE COURT: All right.

19 MS. STEVENS: So as to the more interim systemic  
20 relief. What plaintiffs are requesting are within 30 days --  
21 and I am actually looking at the proposed order, Your Honor.

22 THE COURT: Okay.

23 MS. STEVENS: Within 30 -- excuse me -- 60 days from  
24 today's date. That's March 28th, if this order is signed  
25 today, the defendant DPS must have an operational system to

1 promptly mail a pre-populated voter registration application to  
2 every applicant who checks yes in response to the voter  
3 registration application question currently posed by defendant  
4 DPS during an online transaction.

5 THE COURT: That's the question number five on the  
6 online.

7 MS. STEVENS: Oh, yes, Your Honor. Yes. Sorry.

8 THE COURT: Okay.

9 MS. STEVENS: I'd like to note for Your Honor that  
10 this -- the DPS already sends in the mail voter registration  
11 forms of the type that we're describing that are -- that are  
12 granted not pre-populated to DPS customers already with mail-in  
13 renewal notifications. So that's distinct from mail and change  
14 of address.

15 Next on the relief. Within 60 days from today's date,  
16 again, March 28th, defendant DPS must have an operational  
17 system to update the individual driver's license records of  
18 applicants who check yes in response to the voter registration  
19 application question currently posed by defendant DPS during an  
20 online driver's license transaction to reflect that the  
21 applicant checked yes in response to that question.

22 Next: The pre-populated voter registration  
23 application must be addressed to defendant SOS and include  
24 prepaid postage so that an applicant can complete the voter  
25 registration application and mail it to defendant SOS.

1           Now, this is this specific piece of the proposed  
2     order, Your Honor. Right before State's counsel sat down, he  
3     said that we were asking this court for the preliminary relief  
4     of enjoining a state law. And the state law that they're  
5     referring to is the alleged signature requirement under state  
6     law for voter registration purposes. This interim relief  
7     allows for the individual voter themselves to sign, physically  
8     sign on this voter registration form that we propose they be  
9     sent, their name and date and send it back in. And so that  
10    completely cuts out the argument that the State is making that  
11    we are asking this court to enjoin current state law.

12           THE COURT: Okay.

13           MS. STEVENS: Next, defendant DPS must include with  
14    the voter registration application described above a brief  
15    letter explaining that the individual is receiving a voter  
16    registration application because they selected yes in response  
17    to the voter registration question when they completed their  
18    online driver's license transaction.

19           And, finally, if defendants will be unable to comply  
20    with the timeline set forth in paragraph four of the order,  
21    defendants DPS and SOS must provide specific compelling  
22    evidence demonstrating why they need additional time to comply  
23    and move the court for an amended order no later than seven  
24    days after -- from today's date, from the date the court signs  
25    the order.

1 THE COURT: All right. Anything else?

2 MS. STEVENS: Just a moment, Your Honor.

3 Your Honor, I would like to note for the court that  
4 attached to our reply, one of the exhibits to our reply is the  
5 mail-in form, the form that gets mailed to the Secretary of  
6 State already under that process I described. And attached is  
7 30B6 testimony from the Secretary of State and DPS about the  
8 system that they already use, this mail-in voter registration  
9 form four.

10 THE COURT: Okay. All right. Anything else?

11 MS. STEVENS: No, Your Honor.

12 THE COURT: Counselor.

13 MS. BRANCH: Your Honor, if I could just respond.

14 THE COURT: Okay, yes. Go ahead.

15 MS. BRANCH: Thank you, Your Honor. Intervenors adopt  
16 the argument that's been set forth here today. I did want to  
17 just take one moment to address counsel's argument regarding  
18 our participation in Stringer Two, just two points I want to  
19 make on that.

20 THE COURT: Hold on a second. Let him confer because  
21 I want to make sure he hears.

22 Okay. Go ahead.

23 MR. HILTON: I'm sorry, Your Honor. I apologize.

24 THE COURT: No, no. You're okay. Do you need a  
25 break?

1 MR. HILTON: No, I'm fine.

2 THE COURT: Okay. Go ahead.

3 MS. BRANCH: Thank you. I just want to the address  
4 two points about our participation in Stringer Two: The first  
5 is that the court did not exceed the Fifth Circuit's mandate by  
6 allowing our intervention in Stringer One. The mandate stated  
7 that plaintiffs needed to be dismissed for lack of standing.  
8 It said nothing about dismissing the entire suit nor did it say  
9 anything about intervenor's standing. And the only thing that  
10 has changed here is that Intervenors do have standing in this  
11 case.

12 THE COURT: All right.

13 MS. BRANCH: Moreover, there are exceptions to the  
14 mandate rule, one of which is that where evidence has  
15 substantially changed, the mandate can be exceeded and here  
16 there's a change and that change is that Intervenors have  
17 standing. Even if Your Honor were to sever the two cases, we  
18 were still granted intervention in Stringer One, and we could  
19 incorporate the record in that case pursuant to Federal Rule of  
20 Civil Procedure 10C.

21 On organizational standing, I just want to make one  
22 quick point. Again, as was -- the point was made earlier, the  
23 bar is not high to establish organizational standing.  
24 Courts -- the Supreme Court and the Fifth Circuit have held  
25 that diversion of resources even if only slight is sufficient

1 to confer standing, and I would point Your Honor to OCA Greater  
2 Houston v. Texas for additional law on that point. Here  
3 there's been a clear diversion of resources for each of the  
4 organizational plaintiffs. For example, the DCCC has entered  
5 into a contract to spend \$400,000 to engage in voter  
6 registration in one congressional district in Texas. And part  
7 of the reason why they're doing that and have done that is  
8 because they have to counteract defendant's unconstitutional  
9 practices and the harms that are caused to voters in Texas as a  
10 result of those practices.

11 I would also state that declarations are sufficient to  
12 establish standing, and I would point Your Honor to *Lujan and*  
13 *Direct TV v. Button*, which is a Fifth Circuit case on that  
14 point. Thank you.

15 THE COURT: All right. Counselor, so you've heard the  
16 precise interim relief the plaintiff is seeking, and have you  
17 considered that and discussed that with your clients?

18 MR. HILTON: I have. Well, to the extent that I have  
19 been able to, Your Honor. As I mentioned to you earlier, I got  
20 that on the way out of the door, and I wasn't able to even read  
21 it until I got down here at the coffee shop.

22 THE COURT: Okay.

23 MR. HILTON: So we have not been able to do a full  
24 analysis of this relief.

25 THE COURT: Okay. How much time, if any -- rather,



1 how much time would you need for you to confer with your  
2 clients to review whether you would agree or oppose the interim  
3 relief?

4 MR. HILTON: Well, we oppose the relief.

5 THE COURT: Okay.

6 MR. HILTON: We oppose the relief that they asked for  
7 today.

8 THE COURT: Okay.

9 MR. HILTON: And I wanted to talk a little bit about  
10 the relief. I think I was accused of making some sort of  
11 misrepresentation to Your Honor. I certainly have been in the  
12 courtroom enough to know hopefully Your Honor doesn't think  
13 I've done that.

14 THE COURT: No. Go ahead.

15 MR. HILTON: And her presentation with respect to  
16 relief was so confusing to me because she talked about many  
17 different proposed relief, the final relief from the last case  
18 that I couldn't keep it straight.

19 THE COURT: M-hm.

20 MR. HILTON: So the relief that I understand to be  
21 before the court, there are two proposed orders before the  
22 court on this preliminary injunction motion.

23 THE COURT: Okay.

24 MR. HILTON: The first proposed order was inadequate.  
25 It was so inadequate that it's grounds to deny their motion and

1 we briefed that. The new proposed order that we got this  
2 morning, this is an entirely new proposal that we did not know  
3 about until before, just before coming into this courtroom.

4 THE COURT: Okay.

5 MR. HILTON: We know that it is not a quick fix  
6 because what they're asking for in creating this pre-populated  
7 forms that have been mailed does not exist. That has to be  
8 built from scratch. And our understanding is that based on  
9 similar projects where you have to build a complete application  
10 from the ground up, that is a process of months, possibly years  
11 depending on what the specifications are. It cannot be done in  
12 60 days. It cannot. And I don't know what evidence they think  
13 they have on this but it wasn't on this proposed solution. It  
14 wasn't. It was on something else.

15 THE COURT: Okay.

16 MR. HILTON: So, you know, if we were to have a  
17 different kind of fix, you know, we tried to give Your Honor  
18 our best estimate as to what would happen for the smallest,  
19 most narrow fastest fix, and those are the declarations that  
20 we filed yesterday. But with respect to this new relief this  
21 morning, Your Honor, it cannot be done in 60 days. And I'm  
22 certain, I mean, this was never -- so I'm certain none of the  
23 evidence they cite is talking about this proposal.

24 And counsel reminded me -- and I wanted to mention  
25 this and forgot earlier, the last paragraph, paragraph E, about

1 putting the burden on defendants to modify the injunction after  
2 it's been entered, I don't understand where that standard comes  
3 from, what basis there is for flipping the burden to defendants  
4 to modify an injunction. That's improper out of the gate. I  
5 don't know what evidence they have to support the need for  
6 that. So this proposed injunction this morning, Your Honor, if  
7 we have anything to add beyond what I have said today, we'll  
8 file some sort of notice or supplemental brief with the court  
9 to let you know.

10 THE COURT: Okay. All right.

11 MR. HILTON: But we cannot comply with that order.

12 THE COURT: Let me ask you something.

13 MR. HILTON: Yes, Your Honor.

14 THE COURT: Would there be any useful purpose in  
15 having y'all meet tomorrow perhaps somewhere, here, if  
16 necessary, and confer about this? Would anything be gained  
17 from that?

18 MR. HILTON: Your Honor, if the court asked us to do  
19 that, I'd be willing to. Certainly.

20 THE COURT: Not only with you but with your clients.

21 MR. HILTON: Of course, Your Honor. You know, I think  
22 if the court asked us that, we would find a way to do that.  
23 I'm pessimistic that we would be able to reach a resolution.

24 THE COURT: And why is that?

25 MR. HILTON: Because the requirements of state law are

1 very clear about what the Secretary of State has the authority  
2 to accept and can or cannot do. And that's another point that  
3 I wanted --

4 THE COURT: And the requirements of the National Act  
5 are very clear likewise.

6 MR. HILTON: Right. Well, that's what I wanted to  
7 mention. The National -- the NVRA does not confer authority on  
8 the Secretary of State to register someone to vote. That's not  
9 in the Act. Yes, the Secretary of State is the state election  
10 officer. But that doesn't mean that they have the authority to  
11 register anyone anywhere in the state. The NVRA does not  
12 invalidate, and plaintiffs have not challenged the system of  
13 local control and the structure of the election system in the  
14 State of Texas.

15 THE COURT: Yeah.

16 MR. HILTON: There is a structure of local control  
17 over elections with county-level voter registrars who control  
18 their own county's rolls. They haven't challenged that. The  
19 NVRA doesn't disturb that.

20 THE COURT: Okay.

21 MR. HILTON: And the last point, Your Honor, is they  
22 made some mention of the 6-million number that we gave. They  
23 were transmitted pursuant to state law. Those registrations  
24 are authorized by state law. The county voter registrar, when  
25 they have a registration that's valid under state law, they

1 have a duty to register that voter.

2 THE COURT: M-hm.

3 MR. HILTON: What they're talking about is not  
4 authorized by state law. It would require something that goes  
5 well beyond anything that state law requires. And as counsel  
6 mentioned, it would override the in-writing with the signature  
7 requirement among many other issues. So it's just not true  
8 that that 6 million has anything to do with the proposed relief  
9 we're talking about today.

10 THE COURT: Okay. Let me ask you, you know, on the --  
11 I think you said the State doesn't retain the responses, the  
12 yes responses to question I think five. Is that what you said?

13 MR. HILTON: That's correct, Your Honor. That data is  
14 not kept. It's not tracked.

15 THE COURT: And why not?

16 MR. HILTON: I think that's an interesting question.  
17 There's no purpose that it serves under state law is my  
18 understanding. It's just never been anything that I think has  
19 been asked. Let me confer with my client.

20 THE COURT: Okay.

21 (brief pause)

22 MR. HILTON: Your Honor, I think for a full answer to  
23 that question, that's just not something the defendants could  
24 provide because that website is maintained by DIR.

25 THE COURT: Okay.

1 MR. HILTON: So as far as exactly why it's designed  
2 that way or not, that question is a flag to tell DIR whether to  
3 send that data to DPS.

4 THE COURT: Okay. Do you have anything on that?

5 MS. STEVENS: On that, Your Honor, yes. There is  
6 deposition testimony that is in the record provided by DPS and  
7 the Secretary of State's office from Stringer One on the answer  
8 to this question. There are kind of technical requirements for  
9 how this information gets transferred from the website to DPS's  
10 system. Suffice it to say that the way that they decide what  
11 gets moved is through what's called a use case. And there's  
12 testimony in the record that says back when they were creating  
13 this online system, the original use case was going to track  
14 the answer to that question, and then they decided to take out  
15 the answer to that question, so it's not that it's impossible  
16 or, you know, that the State couldn't ask the vendor who is  
17 working on the website not to do it.

18 THE COURT: All right. Anything else? Anything else?

19 MS. STEVENS: No, Your Honor.

20 MR. HILTON: I just want to say, that's correct, Your  
21 Honor. I think we could make that change. I think that kind  
22 of change is what we contemplated for the declarations filed  
23 yesterday. But that's not something we have now, so we can't  
24 answer the court's data questions directly.

25 THE COURT: Right. Okay. All right. Then I'll

1 review the matter and take it under advisement and issue an  
2 order. Thank you. You're excused.

3 THE COURT SECURITY OFFICER: All rise.

4 (Adjournment)

1 UNITED STATES DISTRICT COURT )

2 WESTERN DISTRICT OF TEXAS )

3 I certify that the foregoing is a correct  
4 transcript from the record of proceedings in the  
5 above-entitled matter.

6 I further certify that the transcript fees and format  
7 comply with those prescribed by the Court and the Judicial  
8 Conference of the United States.

9 Date signed: January 30, 2020.

10  
11 /s/ Leticia Lucia Ornelas

12 **LETICIA L. ORNELAS**

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22  
23  
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25



# Exhibit N

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JARROD STRINGER, et al.

Plaintiffs,

v.

ROLANDO PABLOS, in his official capacity as Texas Secretary of State and STEVEN C. MCCRAW, in his official capacity as Director of the Texas Department of Public Safety

JARROD STRINGER, et al.

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as Texas Secretary of State and STEVEN C. MCCRAW, in his official capacity as Director of the Texas Department of Public Safety

Defendants.

Civil Action Case No. 5:16-cv-00257-OLG

CONSOLIDATED WITH

Civil Action Case No. 5:20-cv-00046-OLG

**FINAL JUDGMENT**

Intervenors have moved for leave of the Court to file for summary judgment pursuant to Fed. R. Civ. P. 56(b), and have moved for summary judgment pursuant to Fed. R. Civ. P. 56(a). On May 10, 2018, the Court granted Plaintiffs' motion for summary judgment. See docket no. 105. In its order, the Court requested that the parties confer and submit a proposed form of judgment setting forth the necessary and appropriate declaratory and injunctive relief for the Court's consideration. Plaintiffs submitted a proposed judgment. Defendants submitted broad objections to the Court's prior rulings

~~and Plaintiffs' proposed judgment but did not submit an alternative to Plaintiffs' proposed form of judgment. After reviewing same, and~~ This Court has granted Intervenor's leave to file a motion for summary judgment and has granted Intervenor's motion for summary judgment. ~~Ce~~consistent with the Court's previous summary judgment findings, see ECF No. 105, which are incorporated herein, the Court:

1. DECLARES, pursuant to 28 U.S.C. § 2201~~and 52 U.S.C. § 20510(b)(2)~~, that Defendants have violated ~~the NVRA, 52 U.S.C. §§ 20503(a)(1), 20504(a), (c), (d), and (e), and 20507(a)(1)(A), and~~ the Equal Protection Clause, U.S. Const. amend. XIV, § 1, by failing to permit simultaneous voter registration with online driver's license renewal and change-of-address transactions;

2. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from continuing to violate the ~~NVRA and~~ Equal Protection Clause by:

- (a) failing to establish procedures to register to vote in elections for Federal office for driver's license customers who renew or change their address online;
- (b) refusing to treat each online driver's license renewal or change-of-address application as a simultaneous application for voter registration with respect to elections for Federal office;
- (c) refusing to include a voter registration application form for elections for Federal office as part of each online driver's license renewal or change-of-address application;
- (d) requiring online driver's license renewal and change-of-address customers who wish to register to vote or update their voter registration to complete an entirely

separate duplicative voter registration application with the Secretary of State's office;

- (e) refusing to make the voter registration portion of each online driver's license renewal or change-of-address application available to the Secretary of State's office;
- (f) refusing to treat the customer's online driver's license change-of-address application as a notification of change of address for voter registration with respect to elections for Federal office, unless the customer indicates that the change of address is not for voter registration purposes;
- (g) refusing to transmit voter registration information submitted in connection with online driver's license renewal and change-of-address transactions to the appropriate State election official within the statutorily required timeframe, 52 U.S.C. § 20504(e);
- (h) refusing, in the case of registration with an online driver's license renewal or change of-address application, to ensure that any eligible online driver's license customer is registered to vote in an election, if the valid voter registration form of the customer is submitted to the Department of Public Safety (DPS) not later than the lesser of 30 days, or the period provided by state law, before the date of the election;
- (i) refusing to accept and use online driver's license customers' previously-captured electronic signatures for voter registration purposes; and
- (j) failing to record and use an online driver's license renewal or change-of-address customer's response to the voter registration portion of the application.

~~3. PERMANENTLY ENJOINS Defendants, their agents and successors in office and all persons working in concert with them, from implementing practices and procedures that violate §§ 20503, 20504, and/or 20507 of the NVRA;~~

4.3. DIRECTS Defendant DPS, no later than **45 days**<sup>1</sup> from the date of this Judgment, to:

- (a) permit simultaneous voter registration with online driver's license renewal and change-of-address transactions so that in order to register to vote or update voter registration information, the online driver's license renewal or change-of-address customer only needs to respond to the following (or substantially similar) questions:

1. **Would you like to register to vote?** No additional information is required.

- **Yes, Register Me to Vote**
- **No, Do Not Register Me to Vote**

2. **If you are already registered, this application will be used to update your voter registration address, unless you opt out. Would you like to opt out of updating your address for voter registration purposes?**

- **Update My Voter Registration**
- **Opt Out: DO NOT Update My Voter Registration** (Your new address will not be submitted to the Texas Secretary of State's office for voter registration purposes).

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<sup>1</sup> This timeline for compliance is justified because: there is a federal election in November ~~2018~~2020; the NVRA mandates have been in existence for 25 years; the violations in issue have persisted for several years; Defendants were served with statutory notice of the instant violations ~~more than two~~early four years ago; and the record reflects that implementation of corrective measures is not only technologically feasible but Defendants are currently capable of instituting such measures. (See docket no. 105). ~~Defendants seek 90 days for corrective measures, and do not want to begin implementation until September 1, 2018. Thus, despite admitting that they are currently capable of making changes, they are seeking six months to make the changes. This timeframe for compliance does not take the upcoming election deadlines into consideration. Moreover, Defendants fail to explain why their current vendor (who is presumably more familiar with Texas.gov) cannot achieve compliance prior to September 1, while their new vendor (who is presumably less familiar with Texas.gov) could achieve compliance within 90 days after September 1.~~

(hereinafter “the voter registration questions”);

- (b) register to vote or update voter registration information for online driver's license customers who select “Yes” in response to the question, “Would you like to register to vote?”
- (c) register to vote or update voter registration information for online driver's license customers who select “Update My Voter Registration” in response to the question, “Would you like to opt out of updating your address for voter registration purposes?”
- (d) register to vote or update voter registration information for online driver's license customers who select both “No” in response to the question, “Would you like to register to vote?” and “Update My Voter Registration” in response to the question, “Would you like to opt out of updating your address for voter registration purposes?”
- (e) track, record, and retain each online driver’s license renewal or change-of-address customer’s response to the voter registration questions; and
- (f) transmit the voter registration information for each online driver’s license renewal or change-of-address customer to the Secretary of State’s office, including the customer’s response to the voter registration questions and the customer’s electronic signature file collected during the customer’s last in-person transaction;

5.4. DIRECTS Defendant of Secretary of State, upon receipt from DPS of each online driver’s license renewal or change-of-address customer’s voter registration information and signature file to transmit this data in the normal course of business to local voter registrar who are responsible for completing the voter registration process, in a manner substantially similar to

the process for transmitting voter registration information after an in-person transaction; and ensure that local voter registrars register to vote or update the voter registration information of these customers;

~~6.5.~~ DIRECTS Defendants, within **14 days** from the date of this Judgment, to submit to ~~Plaintiffs'~~ Intervenors' counsel a proposed public education plan that details the use of at least three media venues, including but not limited to television, radio, internet social media, Texas.gov, and/or the Secretary of State's website <https://www.sos.state.tx.us>, to inform and educate the public on how this Judgment changes the voter registration process for online driver's license renewal and change-of-address applications; include in this public education plan steps to incorporate for two years the promotion of voter registration through online driver's license renewal and change-of-address applications into the Texas.gov marketing program, the Texas.gov/driver marketing campaign, and all DPS, Secretary of State, and their vendors' marketing campaigns related to online driver's license renewal and change-of-address applications; and, once the public education plan is agreed to by all parties, implement such plan no later than **45 days** from the date of this Judgment.<sup>2</sup>

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<sup>2</sup> Should the Parties be incapable of agreeing on an appropriate public education plan, the Parties will submit their proposals to the Court no later than 25 days from the date of this Judgment, and the Court will order the implementation of a plan that takes reasonable steps to inform the public about this Judgment as described in Paragraph 6.

7.6. DIRECTS Defendants to:

- (a) submit to this Court notice of compliance with this Judgment no later than **45** **days** from the date of this Judgment, with affidavits from the Director of DPS and the Secretary of State attached confirming compliance with this Judgment;
- (b) submit to ~~Plaintiffs'~~ Intervenors' counsel on or before January 15th of every year for the next three years through January 15, ~~2021~~2023, a report that includes, for the previous calendar year:
  - (i) a general summary of compliance efforts detailing all steps taken to implement each of the provisions and requirements of this Judgment, including any significant implementation problems, staff training needs, and recommendations for improvement;
  - (ii) the number of online driver's license renewal and change-of-address applications and the number of voter registrations arising from these applications;
  - (iii) copies of all ~~NVRA~~ procedures and educational and training materials related to online driver's license renewal or change-of-address transactions both used in the preceding year and expected to be used in the future;
  - (iv) any investigations or corrective actions at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications;
  - (v) any implemented or revised policies or procedures at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications; and



(vi) all customer complaints related to voter registration through an online driver) license renewal or change-of-address application, and all subsequent correspondence and action taken related to each customer complaint; and

(c) conduct monthly quality control tests until May 20~~21~~<sup>19</sup> to ensure that the online driver's license renewal and change-of-address process complies with this Judgment, and report to Plaintiffs' counsel every three months the results of completed quality control tests;

8.7. RETAINS jurisdiction over this action until two years after the date of this Judgment to ensure that Defendants continue to comply with their obligations under ~~the NVRA~~, the Equal Protection Clause, and this Judgment, and, if Defendants fail to comply with this Judgment at any time after the two-year deadline, permits ~~Plaintiffs-Intervenors~~ to initiate an enforcement action against Defendants in this Court;

9.8. ORDERS that Defendants shall pay to ~~Plaintiffs-Intervenors~~ their reasonable attorney's fees, including litigation expenses, and costs as will be determined by the Court in a post-judgment Order upon submission by the ~~PlaintiffsIntervenors~~.

SIGNED this ~~18<sup>th</sup>~~ day of ~~May~~, 20~~20~~<sup>18</sup>.

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ORLANDO L. GARCIA  
CHIEF U.S. DISTRICT JUDGE

# Exhibit O

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JARROD STRINGER, et al.

Plaintiffs,

v.

ROLANDO PABLOS, in his official capacity as Texas Secretary of State and STEVEN C. MCCRAW, in his official capacity as Director of the Texas Department of Public Safety

JARROD STRINGER, et al.

Plaintiffs,

v.

RUTH HUGHS, in her official capacity as Texas Secretary of State and STEVEN C. MCCRAW, in his official capacity as Director of the Texas Department of Public Safety

Defendants.

Civil Action Case No. 5:16-cv-00257-OLG

CONSOLIDATED WITH

Civil Action Case No. 5:20-cv-00046-OLG

**FINAL JUDGMENT**

Intervenors have moved for leave of the Court to file for summary judgment pursuant to Fed. R. Civ. P. 56(b), and have moved for summary judgment pursuant to Fed. R. Civ. P. 56(a). This Court has granted Intervenors' leave to file a motion for summary judgment and has granted Intervenors' motion for summary judgment. Consistent with the Court's previous summary judgment findings, *see* ECF No. 105, which are incorporated herein, the Court:

1. DECLARES, pursuant to 28 U.S.C. § 2201, that Defendants have violated the Equal Protection Clause, U.S. Const. amend. XIV, § 1, by failing to permit simultaneous voter registration with online driver's license renewal and change-of- address transactions;

2. PERMANENTLY ENJOINS Defendants, their agents and successors in office, and all persons working in concert with them, from continuing to violate the Equal Protection Clause by:

- (a) failing to establish procedures to register to vote in elections for Federal office for driver's license customers who renew or change their address online;
- (b) refusing to treat each online driver's license renewal or change-of-address application as a simultaneous application for voter registration with respect to elections for Federal office;
- (c) refusing to include a voter registration application form for elections for Federal office as part of each online driver's license renewal or change-of-address application;
- (d) requiring online driver's license renewal and change-of-address customers who wish to register to vote or update their voter registration to complete an entirely separate duplicative voter registration application with the Secretary of State's office;
- (e) refusing to make the voter registration portion of each online driver's license renewal or change-of-address application available to the Secretary of State's office;
- (f) refusing to treat the customer's online driver's license change-of-address application as a notification of change of address for voter registration with

respect to elections for Federal office, unless the customer indicates that the change of address is not for voter registration purposes;

- (g) refusing to transmit voter registration information submitted in connection with online driver's license renewal and change-of-address transactions to the appropriate State election official within the statutorily required timeframe, 52 U.S.C. § 20504(e);
- (h) refusing, in the case of registration with an online driver's license renewal or change of-address application, to ensure that any eligible online driver's license customer is registered to vote in an election, if the valid voter registration form of the customer is submitted to the Department of Public Safety (DPS) not later than the lesser of 30 days, or the period provided by state law, before the date of the election;
- (i) refusing to accept and use online driver's license customers' previously-captured electronic signatures for voter registration purposes; and
- (j) failing to record and use an online driver's license renewal or change-of-address customer's response to the voter registration portion of the application.

3. DIRECTS Defendant DPS, no later than **45 days**<sup>1</sup> from the date of this Judgment, to:

- (a) permit simultaneous voter registration with online driver's license renewal and change-of-address transactions so that in order to register to vote or update voter

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<sup>1</sup> This timeline for compliance is justified because: there is a federal election in November 2020; the NVRA mandates have been in existence for 25 years; the violations in issue have persisted for several years; Defendants were served with statutory notice of the instant violations nearly four years ago; and the record reflects that implementation of corrective measures is not only technologically feasible but Defendants are currently capable of instituting such measures. (See docket no. 105).

registration information, the online driver's license renewal or change-of-address customer only needs to respond to the following (or substantially similar) questions:

1. **Would you like to register to vote?** No additional information is required.

- **Yes, Register Me to Vote**
- **No, Do Not Register Me to Vote**

2. **If you are already registered, this application will be used to update your voter registration address, unless you opt out. Would you like to opt out of updating your address for voter registration purposes?**

- **Update My Voter Registration**
- **Opt Out: DO NOT Update My Voter Registration** (Your new address will not be submitted to the Texas Secretary of State's office for voter registration purposes).

(hereinafter "the voter registration questions");

- (b) register to vote or update voter registration information for online driver's license customers who select "Yes" in response to the question, "Would you like to register to vote?"
- (c) register to vote or update voter registration information for online driver's license customers who select "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"
- (d) register to vote or update voter registration information for online driver's license customers who select both "No" in response to the question, "Would you like to register to vote?" and "Update My Voter Registration" in response to the question, "Would you like to opt out of updating your address for voter registration purposes?"

- (e) track, record, and retain each online driver's license renewal or change-of-address customer's response to the voter registration questions; and
- (f) transmit the voter registration information for each online driver's license renewal or change-of-address customer to the Secretary of State's office, including the customer's response to the voter registration questions and the customer's electronic signature file collected during the customer's last in-person transaction;

4. DIRECTS Defendant of Secretary of State, upon receipt from DPS of each online driver's license renewal or change-of-address customer's voter registration information and signature file to transmit this data in the normal course of business to local voter registrar who are responsible for completing the voter registration process, in a manner substantially similar to the process for transmitting voter registration information after an in-person transaction; and ensure that local voter registrars register to vote or update the voter registration information of these customers;

5. DIRECTS Defendants, within **14 days** from the date of this Judgment, to submit to Intervenor's counsel a proposed public education plan that details the use of at least three media venues, including but not limited to television, radio, internet social media, Texas.gov, and/or the Secretary of State's website <https://www.sos.state.tx.us>, to inform and educate the public on how this Judgment changes the voter registration process for online driver's license renewal and change-of-address applications; include in this public education plan steps to incorporate for two years the promotion of voter registration through online driver's license renewal and change-of-address applications into the Texas.gov marketing program, the Texas.gov/driver marketing campaign, and all DPS, Secretary of State, and their vendors' marketing campaigns related to online driver's license renewal and change-of-address

applications; and, once the public education plan is agreed to by all parties, implement such plan no later than **45 days** from the date of this Judgment.<sup>2</sup>

6. DIRECTS Defendants to:

- (a) submit to this Court notice of compliance with this Judgment no later than **45 days** from the date of this Judgment, with affidavits from the Director of DPS and the Secretary of State attached confirming compliance with this Judgment;
- (b) submit to Intervenor's counsel on or before January 15th of every year for the next three years through January 15, 2023, a report that includes, for the previous calendar year:
  - (i) a general summary of compliance efforts detailing all steps taken to implement each of the provisions and requirements of this Judgment, including any significant implementation problems, staff training needs, and recommendations for improvement;
  - (ii) the number of online driver's license renewal and change-of-address applications and the number of voter registrations arising from these applications;
  - (iii) copies of all procedures and educational and training materials related to online driver's license renewal or change-of-address transactions both used in the preceding year and expected to be used in the future;

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<sup>2</sup> Should the Parties be incapable of agreeing on an appropriate public education plan, the Parties will submit their proposals to the Court no later than 25 days from the date of this Judgment, and the Court will order the implementation of a plan that takes reasonable steps to inform the public about this Judgment as described in Paragraph 6.



- (iv) any investigations or corrective actions at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications;
  - (v) any implemented or revised policies or procedures at DPS or the Secretary of State's office related to voter registrations through online driver's license renewal or change-of-address applications; and
  - (vi) all customer complaints related to voter registration through an online driver) license renewal or change-of-address application, and all subsequent correspondence and action taken related to each customer complaint; and
- (c) conduct monthly quality control tests until May 2021 to ensure that the online driver's license renewal and change-of-address process complies with this Judgment, and report to Plaintiffs' counsel every three months the results of completed quality control tests;

7. RETAINS jurisdiction over this action until two years after the date of this Judgment to ensure that Defendants continue to comply with their obligations under the Equal Protection Clause, and this Judgment, and, if Defendants fail to comply with this Judgment at any time after the two-year deadline, permits Intervenors to initiate an enforcement action against Defendants in this Court;

8. ORDERS that Defendants shall pay to Intervenors their reasonable attorney's fees, including litigation expenses, and costs as will be determined by the Court in a post-judgment Order upon submission by the Intervenors.

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2020.

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ORLANDO L. GARCIA  
CHIEF U.S. DISTRICT JUDGE